

Court No. - 30

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 24702 of 2020

Applicant :- Dara Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Radhey Shyam Singh

Counsel for Opposite Party :- G.A.

Hon'ble Ali Zamin,J.

Heard learned counsel for the applicant, learned A.G.A. for the State and perused the material on record.

The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.125 of 2020, under Sections 354-Ka, 504, 506, 376 I.P.C., Police Station Sikandrara, District Hathras.

Learned counsel for the applicant submits that according to F.I.R. version on 06.04.2020 at about 3:00 p.m. when the victim was at the field, applicant molested her. He further submits that on the information F.I.R. was lodged under Sections 504, 506 and 354-A I.P.C. In statement under Sections 161 & 164 Cr.P.C., the victim has levelled allegation of rape against the applicant. She refused to conduct her medical examination. Before four days of lodging of F.I.R. by the victim, a marpeet was committed between the husband of the victim and applicant, regarding which a proceeding was drawn under Section 107, 116 I.P.C. that is why this case has been lodged against the applicant. The criminal history of the applicant has been explained in paras 3 & 4 of the supplementary affidavit. The applicant has not committed the alleged offence. He has been falsely implicated in the present case. There is no possibility of the applicant of fleeing away from the judicial process or tampering with the witnesses and, in case, the applicant is enlarged on bail, the applicant shall not misuse the liberty of bail. It is next contended that there is no criminal history of the applicant and is languishing in jail since 6.4.2020.

Per contra, learned A.G.A. opposed the prayer of the bail application and submits that in statement under Section 164 Cr.P.C., the victim has levelled allegation of rape against the applicant, therefore, the applicant is not entitled for bail.

Considering the facts and circumstances of the case as well as submissions advanced by learned counsel for the parties, lodging of F.I.R. under Sections 504, 506 and 354-A I.P.C., refusal by the victim for conducting her medical examination as well as proceeding drawn on 02.04.2020 against the husband of

the informant/victim Raju and also perusing the material on record, without expressing any opinion on merit of the case, the applicant is entitled for bail, let the applicant- **Dara Singh** involved in aforesaid case crime be released on bail on his furnishing a personal bond and two local sureties each of the like amount to the satisfaction of the court concerned, subject to the following conditions :-

(i) The applicant shall file an undertaking to the effect that he will not tamper with the evidence and will not pressurize/intimidate the prosecution witnesses and will cooperate with the trial. The applicant shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad.

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

Order Date :- 14.10.2020/Jitendra