

**Court No. - 64**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 6004 of 2024

**Applicant :-** Pradumn Gond

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** P.K. Singh, Sunil Kumar Pandey

**Counsel for Opposite Party :-** G.A.

**Hon'ble Ajay Bhanot, J.**

Matter is taken up in the revised call.

By means of this bail application the applicant has prayed to be enlarged on bail in Case Crime No. 312 of 2023 at Police Station Kasimabad, District Ghazipur under Sections 376, 506 IPC and Section 67 of I.T. Act. The applicant is in jail since 23.11.2023.

The bail application of the applicant was rejected by the learned trial court on 21.12.2023.

The following arguments made by Shri P.K. Singh, learned counsel assisted by Shri Sunil Kumar Pandey, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Chandan Agarwal, learned AGA-I from the record, entitle the applicant for grant of bail:

1. Delay in lodgement of the FIR in the facts of this case is fatal to the prosecution case.
2. The victim and the applicant were intimate and had consensual physical relations.

3. The applicant never gave a plighted word to marry the victim.
4. The FIR is a fallout of the relationship gone awry.
5. The applicant never captured any indecent photographs or videos of the victim nor had circulated the same. No indecent photographs or videos of the victim have been recovered from the applicant.
6. Medical evidence to corroborate commission of rape by the applicant with the victim has not been produced by the prosecution.
7. The applicant does not have any criminal history apart from this case.
8. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to cooperate with the court proceedings. There is no possibility of his influencing witnesses, tampering with the evidence or reoffending.

In the light of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

Let the applicant- **Pradumn Gond** be released on bail in the aforesaid case crime number, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below. The following conditions be imposed in the interest of justice:-

(i) The applicant will not tamper with the evidence or influence any witness during the trial.

(ii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

(iii) The learned trial court is directed to fix the sureties after due application of mind in light of the judgement passed by this Court in **Arvind Singh v. State of U.P. Thru. Prin. Secy. Home Deptt. (Application U/S 482 No.2613 of 2023)**.

The learned trial court shall ensure that the right of bail of the applicant granted by this Court is not frustrated by arbitrary demands of sureties or onerous conditions which are unrelated to the socioeconomic status of the applicant.

Some private photographs of the parties have been appended to the rejoinder affidavit.

A direction is issued to the registry that no private photographs or any indecent photographs shall be accepted by the registry without leave of the Court.

Filing of photographs which depict private moments between the parties or indecent photographs invade the privacy of a persons and can also in cases proof to be a traumatic experience.

**Order Date :- 3.4.2024**

Jaswant