

Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 35616 of 2024

Applicant :- Pramod

Opposite Party :- State of U.P.

Counsel for Applicant :- Satya Narayan Gupta, Yogendra Pal Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh, J.

1- Heard learned counsel for the applicant, Mr. Deepak Mishra, learned Additional Government Advocate representing the State and perused the record.

2- By means of this application under Section 439 of Cr.P.C., applicant Pramod, who is involved in Case Crime No. 90 of 2019, under Sections 376, 323, 506 IPC, police station Saroorpur, district Meerut seeks enlargement on bail during the pendency of trial.

3- The brief facts of the case which are required to be stated are that the victim herself lodged the first information report on 30.03.2019 for the alleged offence under Section 376D, 506 IPC against her brother (present applicant) and her father making allegation inter alia that they have been making physical relation with her for the last 3-4 years. Whenever she tried to complain, they threatened and made her silent. She has pregnancy of about five months due to rape by her brother and father. Today she mustered courage and called 1090 and informed about the said incident.

4- Main substratum of argument of learned counsel for the applicant is that the applicant has been falsely implicated in this case and he has been languishing in jail since 04.04.2019 but his trial has not yet been concluded, therefore, considering his detention period, he may be enlarged on bail.

5- Per contra, learned A.G.A. for the State vehemently opposed the prayer for bail of the applicant by contending that allegation of the victim is corroborated from her medical examination report, in which, she was found to have pregnancy of 28 weeks and 06 days. It is also pointed out that at the time of medical examination of the victim, she had reiterated the prosecution case as mentioned in the first information report and also stated that her father after committing rape on her tried to commit her murder. So far as stage of trial of the applicant is concerned, it is submitted that out of 08 prosecution witnesses of the charge-sheet, 02 prosecution witnesses of the fact and 02 formal prosecution witnesses have been examined before the trial Court. Lastly, it is submitted that offence is heinous in nature, therefore, bail application of the applicant is liable to be rejected.

6- Having heard learned counsel for the parties and examined the matter in its entirety, I find that facts of this case and allegation of rape on victim by her real brother and father are very rare and heinous in nature. It is a case of an unforgivable betrayal of blood and trust. The hands of father and brother meant to protect the dignity of his daughter and sister became weapons of her destruction.

7- The Apex Court in the case of **X vs. State of Rajasthan and another, 2024 SCC OnLine SC 3539** has held that if the trial of the accused has started, his bail should not be granted in heinous offences like murder, rape and dacoity.

8- Considering the overall facts and circumstances of the case as well as keeping in view the submissions advanced on behalf of parties, gravity of offence, role assigned to applicant as well as in the light of recent judgment of the Apex Court in the case of X vs. State of Rajasthan (supra), I do not find any good ground to release the applicant on bail.

9- Accordingly, the bail application is **rejected**.

10- It is made clear that the observation contained in

the instant order is confined to the issue of bail and shall not affect the merit of the trial.

11- However, considering the detention period of the applicant as noted above, Senior Superintendent of Police, Meerut is directed to ensure production of remaining prosecution witnesses on the dates fixed before the trial Court, so that trial of the applicant may be concluded at the earliest.

12- On appearance of the prosecution witnesses, trial Court shall record their statements on the same day without granting any adjournment to either of the parties.

13- A copy of this order be communicated to the Senior Superintendent of Police, Meerut and the trial Court within a week for information and compliance.

Order Date :- 15.1.2025
Shubham