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HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Court No. - 11

Case :- BAIL No. - 11235 of 2019

Applicant :- Shivam Trivedi

Opposite Party :- State of U.P.

Counsel for Applicant :- Pradyumn Shukla

Counsel for Opposite Party :- Govt. Advocate

Hon'ble Rajeev Singh,J.

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

The present bail application has been filed on behalf of the applicant in Case Crime No.113 of 2019, under Sections 376D, 506 I.P.C., Police Station Lalganj, District Raebareli, with the prayer to enlarge him on bail.

The submissions of learned counsel for the applicant are that the applicant is innocent person and has been falsely implicated in the case, he is having no previous criminal history and in jail since 19.09.2019. It is further submitted on behalf of applicant that the applicant and the prosecutrix were in love affair. He further submitted that family members of the applicant has not accepted the relation of the applicant with the prosecutrix, then the prosecutrix filed an application under Section 156(3) Cr.P.C. on 21.12.2018 before the A.C.J.M., Court No.12, Raebareli and thereafter the order was passed by the learned A.C.J.M. for registering the F.I.R., as a result, the F.I.R. No. 113 of 2019, under Section 376D, 506 I.P.C., P.S. Lalganj, District Raebareli was registered on 05.03.2019.

Learned counsel for the applicant further submitted that the statement of prosecutrix was recorded under Sections 161 & 164 Cr.P.C., in which she stated that two years ago from lodging the F.I.R., the prosecutrix was brought to Raebareli by the applicant for providing employment and forcibly committed rape with her by giving false assurance of solemnizing marriage with her. He further submitted that on 09.01.2019, the prosecutrix and the applicant entered into the marriage and executed an agreement which is appended as annexure No.7 to the bail application, but when the relation was not accepted by the parents of the applicant, then the aforesaid F.I.R. was lodged by the informant. Therefore, the applicant is entitled for bail. In case of being enlarged on bail, he will not misuse the liberty of bail.

Learned A.G.A. has opposed the prayer for grant of bail to the applicant and submitted that by giving false promise of marriage, the prosecutrix was raped by the applicant but he conceded the fact that in the first incident, rape was taken place two years ago from the date of lodging the F.I.R. but she has not made any complaint then and also conceded that the prosecutrix is aged about 23 years.

Considering the rival submissions of learned counsel for parties, material available on record as well as totality of fact and circumstances, and without expressing any opinion on the merits of the case, I am of the view that the applicant is entitled to be released on bail.

Let applicant Shivam Trivedi be released on bail in the aforesaid Case Crime on his furnishing personal bond and two reliable sureties each of the like amount to the satisfaction of the court concerned subject to following conditions:-

- (1) Applicant will not try to influence the witnesses or tamper with the evidence of the case or otherwise misuse the liberty of bail.
- (2) Applicant will fully cooperate in expeditious disposal of the case and shall not seek any adjournment on the dates fixed for evidence when witnesses are present in the Court.
- (3) Applicant shall remain present, in person, before the trial court on the dates fixed for (a) opening of the case, (b) framing of charge; and (c) recording of statement under Section 313 Cr.P.C.

Any violation of above conditions will be treated misuse of bail and learned Court below will be at liberty to pass appropriate order in the matter regarding cancellation of bail.

Order Date :- 25.11.2019

S. Shivhare

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