



UPBS010045962022

In the court of the Sessions Judge, Basti

Present: Sri Kuldeep Saxena, (H.J.S.)

Bail application no. 2049 of 2022

Mukesh alias Mahesh Kumar aged about 20 years s/o Om Prakash
R/o village Sehri Khas, P.S. Bhawaniganj, District Siddhartha Nagar.

.....Applicant/accused

Vs

State of U.P.

.....Opposite party

Case crime no. 146 of 2022

U/S 376D, 366, 342, 506 I.P.C.

P.S. Sonha, District Basti.

03.11.2022

1. The applicant/accused Mukesh alias Mahesh Kumar has applied for bail in Case crime no. 146 of 2022, U/S 376D, 366, 342, 506 I.P.C., P.S. Sonha, District Basti. The accused is in judicial custody.

2. It has been stated in the bail application that this is the first bail application of the applicant/accused. Neither any bail application of the applicant/accused is pending before or rejected by any Court or the Hon'ble High Court. An affidavit to the effect has been filed by Satiram. But the rebuttal of above fact has not been done by the Prosecution.

3. According to prosecution case, complainant Surendar Kumar lodged a written report in this respect that on 08.07.2022 at about 4.00 a.m. his sister aged about 20 years went to ease herself outside where Rampal alias Kallu alias Pritam, Rohit and Vimla Devi by giving allurements of marriage drove away his sister somewhere. Complainant tried to find her but could not find. Thereafter on the basis of written report, a case was registered against three persons in Case crime no. 146 of 2022, U/S 366 I.P.C., P.S. Sonha, District Basti. During investigation, section 376D, 342 and 506 I.P.C. was increased in this case and on 01.10.2022, applicant/accused along with co-accused Rohit and Rampal alias Kallu alias Pritam was arrested by the police and they are in judicial custody since then. After completing the investigation, charge sheet has been prepared by the concerned I.O.

4. It was contended by the learned counsel for the applicant/accused that the applicant is innocent and has been falsely implicated in this case due to enmity. There is no previous criminal history of the applicant. He has neither given allurement nor committed victim's rape. F.I.R. has been lodged with delay. There is no independent witness of this case. That the victim is major. There is no apprehension of his absconding, if

he will be released on bail. Hence, the applicant may kindly be released on bail.

5. Per contra the learned D.G.C. (Criminal) vehemently opposed the bail application and prayed for rejection of bail application.

6. Heard the learned counsel for the applicant/accused and learned D.G.C. (Criminal) and perused the material on record.

7. From the perusal of F.I.R., it clears that although applicant/accused is not named in the F.I.R. but during investigation his name has come into light on the basis of the statement of victim. The victim has clearly stated that applicant/accused alongwith other co-accused forcibly committed her gang rape by giving allurements of marriage. In this connection, I have gone through 161 Cr.P.C. statement of the victim wherein victim has clearly stated the name of the applicant/accused along other co-accused Rinku, Pritam and Rohit and stated that her gang rape was committed by all. Victim has given the same statement in her 164 Cr.P.C. statement. Matter is related with the gang rape of a lady which is of heinous in nature. After, considering the facts and circumstances of the case as well as the gravity of offence, complicity of the accused in the alleged offence, I do not find any justification for granting bail to the applicant/accused. Hence, bail application is liable to be rejected.

Order

8. Bail application moved by applicant/accused Mukesh alias Mahesh Kumar in Case crime no. 146 of 2022, U/S 376D, 366, 342, 506 I.P.C., P.S. Sonha, District Basti is, hereby, rejected.

(Kuldeep Saxena)
Sessions Judge, Basti.
J.O.code UP1901

Dated: 03.11.2022