

Reserved on: 24.05.2022

Delivered on: 26.05.2022

Court No. - 71

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48511 of 2021

Applicant :- Rajkaran Patel

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajiv Lochan Shukla,Ravikant Shukla

Counsel for Opposite Party :- G.A.,Sukhvir Singh

Hon'ble Samit Gopal,J.

1. Heard Sri Rajiv Lochan Shukla, learned counsel for the applicant, Sri Sukhvir Singh, learned panel counsel for the High Court Legal Service Committee and Sri B.B. Upadhyay, learned counsel for the State and perused the material on record.

2. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant- **Rajkaran Patel**, seeking enlargement on bail during trial in connection with Case Crime No. 198 of 2021, under Sections 366, 376, 354-A, 328, 323, 504, 506 I.P.C., registered at Police Station Civil Lines, District Prayagraj.

3. The first information report of the present case was lodged on 07.04.2021 at 00:32 hours, under Section 366 I.P.C. by Karunapati Patel against the applicant and Sipahi Lal Shukla in connection with an incident alleged to have taken place on 06.04.2021 at 13:30 hours alleging therein that the first informant is a resident of village Kaudru, Police Station Sarai Inayat, District Prayagraj. His daughter aged about 20 years is a LL.B. student and was practising in the High Court with Rajkaran Patel (the present applicant) who is a resident of Village Sohasha, Police Station Mungra Badshahpur, District Jaunpur who is an Advocate in the High Court. On the day of occurrence at about 1:30 pm from near Alia Law

Agency, both the accused persons have enticed away his daughter. The date of birth of his daughter is 15.11.2000. The first information report is thus lodged.

4. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is further argued that the prosecutrix was interrogated under Section 161 Cr.P.C. and also her statement was recorded under Section 164 Cr.P.C. The copy of the statement recorded under Section 161 Cr.P.C. is annexed as Annexure-5 to the affidavit in support of bail application whereas the certified copy of her statement recorded under Section 164 Cr.P.C. is annexed as Annexure-SA-1 to the second supplementary affidavit dated 28.04.2022. Learned counsel has placed before the Court both the statements and has argued that there has been an improvement by the prosecutrix in her statement recorded under Section 164 Cr.P.C. as that of her statement recorded under Section 161 Cr.P.C. It is further argued that the prosecutrix in her statement recorded under Section 161 Cr.P.C. has not stated of the incident as had been stated to be continuing since long but has not mentioned the actual date and time since when she had been subjected to sexual assault by the applicant. It is argued that when the prosecutrix was brought before the doctor for her medical examination she has although narrated about the entire incident in detail but even therein there is a variation of her version as stated by her in her statements recorded under Section 161 Cr.P.C. and under Section 164 Cr.P.C. It is further argued that the medical examination of the prosecutrix was conducted on 02.07.2021 whereas as per her version as stated in her statement recorded under Section 161 Cr.P.C., she was assaulted on 29.06.2021 in front of Gate No.5 of the High Court but the doctor although has found one healed injury on her breast and an abrasion on her left arm but had opined that there is no fresh injury. It is argued that connecting the said injury with

the present incident would not at all be in favour of the version of the prosecutrix as stated by her.

5. Learned counsel for the applicant further argued that the prosecutrix has stated that she had aborted her pregnancy four times but there is no evidence whatsoever regarding the said allegation and the same can very-well as such be said to be an exaggerated version given by her and as such Section 313 I.P.C. was left out. The applicant was not taken on remand under the said Section vide order dated 17.12.2021, the copy of which is annexed as Anneuxre-SA1 to the supplementary affidavit dated 08.04.2022. It is argued that the prosecutrix has stated in her statements that she had met one Ms. Rakhi on 29.06.2021 but the said person has not been made as a witness in the present case who is said to have helped the prosecutrix as per her own version. Paragraph 23 of the affidavit in support of bail application has been placed to buttress the said argument. It is further argued that the prosecutrix in her statement recorded under Section 164 Cr.P.C. has stated that on 05.04.2021 when she had gone to the High Court, the accused persons met her at a crossing near the High Court, co-accused Sipahi Lal assaulted her and at that time her mobile was connected with her father who was also listening to the same. It is argued that even the said fact is false and incorrect as there is no reference about it in the present first information report which has been lodged after 02 days of the alleged incident of her being beaten up. It is argued that the prosecutrix is a major girl. She as per her own version used to come to the High Court with an Advocate and was working with him and as such was in the knowledge of legal proceedings. She kept on changing and improving her version. The applicant is having criminal history of one case which has been disclosed and explained in paragraph 15 of the affidavit but in the said case till date although it is of the year 2019, he has not received any summons or any notice from the police or any court. The applicant is in jail since 25.09.2021.

6. *Per contra*, learned panel counsel for the High Court Legal Service Committee and learned counsel for the State have vehemently opposed the prayer for bail and argued that the applicant is named in the first information report. The prosecutrix has in her statements recorded under Section 161 Cr.P.C. and under Section 164 Cr.P.C. named the applicant and has assigned specific role to him. It is argued that the allegation that the prosecutrix was working with the applicant in the High court in his office is not denied. Even the fact that she was known to him is not denied. It is argued that the present case is such in which an Advocate has exploited a girl who was a law student on the pretext of imparting legal training to her through his office and courts. It is argued that there are serious allegations against the applicant. The prosecutrix has stated of the applicant exploiting her at the initial stage and then committing sexual assault on her. She has explained the circumstances under which she was being threatened and was continued to be exploited. In so far as the physical assault is concerned, the doctor has found injuries on her body which corroborate with her version. It is further argued that during investigation, the police added Shivraj Patel, Dheerendra Kumar Saroj and Saroj Devi as accused but as of now charge-sheet being Charge Sheet No. 01 dated 18.11.2021 has been filed only against Shivraj Patel and the present applicant but in so far as the investigation with regards to the other accused persons is concerned, the same is pending. It is further argued that since the applicant is an Advocate, if released on bail, there are chances of his tampering with evidence and may influence the investigation as the investigation for other accused persons is pending. The prayer for bail be thus rejected.

7. Learned counsel appearing for the High Court Legal Service Committee has further informed the Court that the applicant is involved in another case being Case Crime No. 193 of 2021, Police Station Civil Lines, District Allahabad which has not been disclosed and explained in

the bail application. In so far as the disclosure in paragraph 15 of the affidavit regarding one criminal history of the applicant is concerned, it is argued by producing the photocopy of the said first information report that the applicant is named in the first information report along with four other unknown persons.

8. After having heard the learned counsel for the parties and perusing the record, it is evident that the applicant is named in the first information report, in the statements of the prosecutrix recorded under Section 161 Cr.P.C. and under Section 164 Cr.P.C. The name of the applicant and the role assigned to him is consistent throughout. The allegations are of sexual assault and physical assault upon the prosecutrix which had continued for a substantial long period. The prosecutrix was junior in the office of the applicant. The allegations are against a person practising law and is a person in uniform involved in a noble profession. The office of a lawyer is not less respected than Courts of law. The act as complained of by her against the applicant is told by her in detail in her statements recorded under Section 161 Cr.P.C. and under Section 164 Cr.P.C. There has been no reason spelt out as to why the applicant is being falsely implicated. The investigation for other accused persons is pending and the apprehension of learned counsels for the State and of the panel lawyer of High Court Legal Service Committee of the applicant being in a position to influence the investigation and tamper with the evidence cannot be ruled out at this stage.

9. Looking to the facts and circumstances of the case, I do not find it a fit case for bail, hence, the bail application is **rejected**.

10. This Court has vide order dated 08.04.2022 directed the District and Sessions Judge, Prayagraj to send the statement of the prosecutrix recorded under Section 164 Cr.P.C. from the concerned Court. As per the office report dated 25.4.2022, the compliance of the order has been done

and a sealed envelope has been received. The said envelope was opened on the directions of the Court by the Bench Secretary during arguments.

11. After conclusion of the arguments, this Court directed the Bench Secretary of this Court to seal the same which has been sealed. The Registrar General is directed to remit back the said sealed envelope to the District and Sessions Judge, Prayagraj, within three days from today, who shall place the same at its appropriate place.

Order Date :- 26.5.2022
AS Rathore

(Samit Gopal,J.)