

**Court No. - 75**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 52962 of 2022

**Applicant :-** Kamlesh

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

**Counsel for Applicant :-** Mohd. Abrar Khan

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

**Hon'ble Mrs. Manju Rani Chauhan,J.**

Heard Mr. Mohd. Abrar Khan, learned counsel for the applicant and Mr. Pankaj Srivastava, learned A.G.A. for the State and perused the material on record.

The instant bail application has been filed on behalf of the applicant, **Kamlesh** with a prayer to release him on bail in Case Crime No.333 of 2022, under Sections 376, 452, 504, 506 I.P.C., & Section 66 of the Information Technology Act, Police Station-Karari, District-Kaushambi, during pendency of trial.

As per prosecution version, the FIR has been lodged by the victim herself on 05.10.2022 at 12:30 hours with the allegation that the applicant was working with husband of the victim, who was working as confectioner. Due to the aforesaid, the applicant used to visit her house and in absence of her husband forcibly established relationship with the victim and made a video of the same. Blackmailing by threatening to make the aforesaid video viral, he forcefully established physical relationship with her number of times. When on one occasion, the victim refused to do as asked by the applicant, he made the video viral on which the husband came to know about the aforesaid and went to make a complaint regarding the same, on which the applicant used abusive language and threatened to kill him.

Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case. The relationship between applicant and victim was friendly. There is no such video in which any objectionable thing is there for which the applicant could have blackmailed the victim. He further submits that though in the version of the FIR and statements under Section 161 and 164 Cr.P.C., there are no variations, however, from the statements, it is clear that there is no evidence on record to show that any such video is there. The photograph of the applicant and the victim, which is part of the case diary shows consensual relationship between two. He further submits that when the victim's husband came to know about the consensual relationship, he forced the victim to lodge

such an FIR and give such statement, so that he does not have to return the money taken from the applicant. The applicant is languishing in jail since 06.10.2022. The applicant does not have any previous criminal history. In case, he is released on bail, he will not misuse the liberty of bail and will cooperate in the trial by all means. Lastly, it is submitted that there is no chance of applicant fleeing away from judicial process or tampering with the witnesses.

Per contra learned A.G.A. has opposed the bail prayer of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage, therefore, he does not deserves any indulgence. In case the applicant is released on bail he will again indulge in similar activities and will misuse the liberty of bail.

Keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, submissions of the learned counsel for the parties, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

Let the applicant-**Kamlesh** involved in aforesaid case crime be released on bail on his furnishing a personal bond and two local sureties each of the like amount to the satisfaction of the court concerned, subject to the following conditions:-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section

313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

It is clarified that the observations, if any, made in this order are strictly confined to the disposal of the bail application and must not be construed to have any reflection on the ultimate merits of the case.

**Order Date :- 23.11.2022**

Rahul.