

Allahabad High Court

Sri Kant Mishra vs The State Of U.P. on 5 January, 2010

Court No. - 8

Case :- BAIL No. - 6353 of 2009

Petitioner :- Sri Kant Mishra

Respondent :- The State Of U.P.

Petitioner Counsel :- Sushil Pandey, A.K. Shukla

Respondent Counsel :- Govt. Advocate

Hon'ble Ashwani Kumar Singh, J.

Heard learned counsel for the applicant, learned A.G.A., Sri Arun Saxena, learned counsel appearing on behalf of the complainant and perused the F.I.R. and other relevant papers filed in support of the bail application.

Counter affidavit filed by the State, is taken on record.

The submission of learned counsel for the applicant is that the present case was lodged on an F.I.R., which was registered after an order was passed by the concerned Magistrate on an application moved under Section 156(3) I.P.C. It is alleged that the prosecutrix was raped by the accused-applicant alongwith two others. The story which has been narrated by the prosecutrix is that she was raped by the accused-applicant alongwith others in front of her husband and some other persons who had also arrived at the spot.

Learned counsel for the applicant further submits that the applicant is innocent and has falsely been implicated in the present case and the story as cooked up by the prosecution is flimsy and has been concocted. It is also vehemently contended that it is practically not possible that persons would indulge in such act in front of so many persons standing nearby. It is also submitted that the prosecutrix herself refused to get medically examined and no statement under Section 164 Cr.P.C. has been recorded by the prosecutrix. It is submitted that the prosecutrix is aged about 36 years, as averred in para 7 of the bail application and the same is not controverted in the counter affidavit filed by State. It is also submitted that since the prosecutrix is a lady belonging to schedule caste, as such, to gain some financial benefit from the Government, she has concocted the present case against the applicant and others. The applicant is in jail since 30.5.2009, as averred in para 16 of the bail application and has no previous criminal history, as averred in para 17 of the bail application.

Considering the overall aspects of the matter and without entering into the merit of the case, I hereby provide that the applicant, Sri Kant Mishra be released on bail in Case Crime No.305/2009, under Sections 342, 376, 506 I.P.C. and Section 3(2)(v) S.C.S.T. Act, P.S. Reusa, District Sitapur, on his filing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned/remand magistrate.

Order Date :- 5.1.2010 Kpy