

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 3163 of 2021

Applicant :- Niraj Giri

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Ashok Kumar Srivastava, Ravi Raj Singh

Counsel for Opposite Party :- G.A., Rakesh Chandra

Hon'ble Sameer Jain, J.

1. None appeared on behalf of the informant even in the revised call. However, learned AGA for the State-respondent is present.
2. Heard Sri Tripathi Biji Bhai, Advocate holding brief of Sri Ravi Raj Singh, learned counsel for the applicant and Sri Ravi Kant Kushwaha, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 56 of 2018, under Sections 452, 376, 306 IPC & Section 3/4 POCSO Act, Police Station Pannuganj, District Sonbhadra, during pendency of the trial in the court below.
4. This is the second bail application filed on behalf of the applicant. The first bail application of the applicant was dismissed for non prosecution and not on merit.
5. FIR of the present case was lodged against the applicant and according to the FIR on arrival of the informant and his family members at home, applicant ran away from their house and on query the daughter of the informant who was aged about 16 years informed them that applicant who was a married person and neighbour of the informant sexually exploited her since long and today he was again trying to make physical relationship with her.
6. It is further mentioned in the FIR that due to the conduct of the applicant on 27.6.2018, daughter of the informant committed suicide by consuming some poisonous substance.
7. Learned counsel for the applicant submitted that the entire allegations made against the applicant are totally false and

actually deceased and applicant were having relationship but when informant and other witnesses witnessed them in objectionable position then in shame and due to torture of her parents, she consumed some poisonous substance and committed suicide and therefore, it cannot be said that due to the abetment of the applicant she committed suicide. He further submitted that actually when informant saw the applicant alongwith the deceased then he started torturing her and due to his torture she committed suicide.

8. He further submitted that applicant is in jail in the present matter since 29.6.2018, i.e. for more than five years and therefore, considering the facts and circumstances of the case, he may be released on bail.

9. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is a married person and due to his sexual exploitation victim committed suicide, therefore, merely due to long incarceration he should not be released on bail.

10. I have heard learned counsel for the parties and perused the record of the case.

11. Although, this is second bail application of the applicant but his first bail application was not dismissed on merit.

12. However, from the perusal of the record, it reflects that applicant is in jail in the present matter for more than five years but there are serious allegations against him that he sexually exploited the daughter of the informant aged about 16 years and due to his sexual exploitation she committed suicide by consuming some poisonous substance. Viscera report of the deceased also suggests that she died due to the consumption of Aluminum phosphate. Further, applicant appears to be married man, therefore, I am not inclined to release the applicant on bail.

13. Accordingly, the instant second bail application stands **dismissed**.

14. However, considering the fact that applicant is in jail for more than five years, trial court is directed to conclude the trial of the case, positively, within seven months from the date of production of certified copy of this order, strictly, as per provisions of section 35 of POCSO Act and Section 309 Cr.P.C. without granting any unnecessary adjournment to either of the parties, if there is no legal impediment.

15. It is open for the applicant to renew his prayer for bail if within stipulated period of seven months, trial of the case is not concluded subject to the condition that applicant will fully co-operate with the trial and there would be no delay on his part.

16. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 16.10.2023

Ankita