

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 837 of 2023

Applicant :- Bantu

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Sanjay Singh

Counsel for Opposite Party :- G.A.,Atul Kumar Singh

Hon'ble Sameer Jain,J.

1. Heard Sri Yogesh Srivastava, Advocate holding brief of Sri Sanjay Singh, learned counsel for the applicant; Sri Manu Upadhyay, Advocate holding brief of Sri Atul Kumar Singh, learned counsel for the informant and Sri Rajiv Dhar Dwivedi, learned AGA for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 0190 of 2022, under Sections 376, 328 IPC and section 5P/6 POCSO Act, Police Station Khandauli, District Agra, during pendency of the trial in the court below.

3. FIR of the present case was lodged against the applicant and according to the FIR applicant has taken the daughter of the informant aged about 16 years on his motorcycle and committed rape with her.

4. Learned counsel for the applicant submitted that the entire allegations made against the applicant are totally false and actually victim was having friendship with the applicant and she was consenting party but when informant came to know about her relationship with the applicant then FIR of the present case was lodged.

5. He further submitted that although from perusal of the record it appears that she sustained injuries on her private part but actually physical relationships were developed between applicant and victim, therefore, she sustained minor abrasions on her private parts.

6. He further submitted that victim during investigation in her both the statements stated against the applicant but the story narrated by

her appears to be improbable.

7. He further submitted that applicant is having no criminal history and he is in jail in the present matter since 11.6.2022 i.e. for more than a year.

8. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that victim is hardly 16 years old at the time of incident and being neighbour of the applicant she took the lift from the applicant on his motorcycle and thereafter applicant provided her cold drink and after consuming the same, she lost her conscious and thereafter applicant committed rape with her.

9. They further submitted that in both the statements victim categorically stated against the applicant and even medical report of the victim also corroborates her version as medical report shows that doctor noted injuries on the private part of the victim.

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

11. Considering the statements of the victim recorded under sections 161 and 164 Cr.P.C. coupled with her medical report, in my view, applicant is not entitled to be released on bail.

12. Accordingly, the instant bail application stands ***rejected***.

13. 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 :- 31.10.2023

Ankita