

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 669 of 2021

Applicant :- Nitin

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

Counsel for Applicant :- Anwar Hussain

Counsel for Opposite Party :- G.A.,Lakshmi Kant Pandey

Hon'ble Sameer Jain,J.

1. None present on behalf of the informant even in revised call. However, learned AGA for the State is present.
2. Heard Sri Anwar Hussain, learned counsel for the applicant and Dr. S.B. Maurya, learned AGA-I for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 725 of 2020, under Sections 376, 506 IPC & 5(L)(N)/6, 16 and 17 POCSO Act, Police Station-Tajganj, District- Agra, during pendency of the trial in the court below.
4. FIR of the present case was lodged against applicant by his aunt and according to the FIR, in the absence of the informant, applicant, who is first cousin of the victim, sexually exploited her, who was 14 years' old.
5. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and actually informant of the case is real aunt of the applicant and there is dispute of share of property between both the sides and only due to this reason, applicant has been made accused in the present matter. He further submitted that on the basis of vague allegation of sexual exploitation and rape, applicant has been made accused in the present matter. He further submitted that neither in the FIR nor in the statements of the victim recorded during investigation, there is specific date of rape has been mentioned.
6. He further submitted that applicant is not having any criminal history and he is in jail since 20.10.2020 i.e. for more than three years.

7. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is an adult and he is the first cousin of the victim, who was hardly 14 years' old and he resided in the same house where victim resided and in the absence of her mother, applicant committed rape with her on routine basis and, therefore, he misused his fiduciary relationship and, therefore, considering the relationship of the applicant with the victim and nature of allegation, he should not be released on bail.

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

9. However, it appears that in the present matter applicant is in jail since October, 2020 i.e. for last three years but he is the first cousin of the victim, who was hardly 14 years' old girl and as per the allegation, in the absence of the mother of the victim, applicant sexually exploited her for several years and victim in her both the statements recorded during investigation stated against the applicant, therefore, I am not inclined to release the applicant on bail.

10. Accordingly, the instant bail application is ***rejected***.

11. 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.

12. However, considering the fact that applicant is in jail for three years, trial court is directed to conclude the trial of the case within a period of eight months from the date of production of certified copy of this order, strictly as per the provisions of Section 35 POCSO Act as well as of Section 309 Cr.P.C. without granting any unnecessary adjournment to either of the parties, if there is no legal impediment.

Order Date :- 6.11.2023

KK Patel