

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 2386 of 2023

Applicant :- Rahul Agarwal

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

Counsel for Applicant :- Venu Gopal, Parijat Kumar Tiwari

Counsel for Opposite Party :- G.A., Jalaj Kumar Tripathi

Hon'ble Sameer Jain, J.

1. Case called out in revised list. None present on behalf of the informant. However, learned AGA for the State is present.
2. Heard Sri Venu Gopal, learned counsel for the applicant and Sri Brijesh Kumar Singh, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 470 of 2022, under Sections 363, 376AB, 376(2)(n), 506 IPC, 5(m), 5(I), 6 POCSO Act and Section 3(2)(v), 3(2)(v-a), 3(1)(d) SC/ST Act, Police Station Izzat Nagar, District Bareilly during pendency of the trial.
4. FIR of the present case was lodged against applicant and according to the FIR applicant was the husband of the teacher of the daughter of the informant aged about 10 years and he has taken her under the pretext of coaching at his home and made aggravated sexual assault upon the victim.
5. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and as husband of the informant i.e. father of the victim used to pass sexual remarks upon the wife of the applicant i.e. teacher of the victim and when applicant resisted then he has been made accused in the present matter.
6. He further submits that there are material contradiction in both the statements of the victim recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 04.06.2022 i.e. for more than one year.

7. Per contra, learned AGA opposed the prayer for bail and submitted that victim is hardly 10 years old girl and applicant is husband of her teacher, therefore, considering the relationship of the applicant, his conduct and allegation made against him, he should not be released on bail.

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

9. Considering the statements of the victim recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. coupled with the fact that victim is hardly 10 years old girl and applicant is husband of her teacher, in my view, applicant is not entitled to be released 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 more than one year, trial court is directed to conclude the trial of the case within a period of nine months from the date of production of certified copy of this order strictly as per provision of Section 35 of POCSO Act and Section 309 Cr.P.C., if there is no legal impediment.

Order Date :- 26.10.2023

AK Pandey