

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 9946 of 2023

Applicant :- Sahil

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

Counsel for Applicant :- Rajeev Ratan Shukla, Ankit Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. As matter pertains to provisions of POCSO Act, therefore, notice was issued to the informant of the case.
2. As per office report dated 17.04.2023 notice has been served personally upon the informant. Despite service of notice, none present on behalf of the informant.
3. Heard Sri R.R. Shukla, learned counsel for the applicant and Sri Suresh Bahadur Singh, learned AGA for the State.
4. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 155 of 2022, under Sections 363, 376 IPC and Section 3/4 POCSO Act, Police Station Chhapar, District Muzaffar Nagar during pendency of the trial.
5. FIR of the present case was lodged against applicant and according to the FIR applicant has taken the daughter of the informant aged about 15 years.
6. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and only due to dispute of payment he has been made accused in the present matter. He further submits that although victim in her both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. stated against the applicant but there are material contradictions in her both the statements and this fact clearly suggests that applicant totally on the basis of false allegation has been made accused in the present matter. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 18.09.2022 i.e. for more than a year.

7. Per contra, learned AGA opposed the prayer for bail and submits that victim is hardly 14 years old girl and she in her both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. made allegation of rape against the applicant and applicant failed to bring any good reason of his false implication, therefore, he is not entitled to be released on bail.

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

9. Although, it appears that there are some contradictions in the statement of victim recorded under Section 161 Cr.P.C. and 164 Cr.P.C. but as far as the substratum of allegation of rape is concerned the allegation in both the statements is same and victim is hardly 14 years old girl and applicant could not bring any good reason of his false implication.

10. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is not entitled to be released on bail.

11. Accordingly, the instant bail application is rejected.

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 POCSO Act and Section 309 Cr.P.C., if there is no legal impediment.

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 :- 12.10.2023

AK Pandey