

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12438 of 2023

Applicant :- Ranjan Kumar Jha

Opposite Party :- State of U.P.

Counsel for Applicant :- Devesh Kumar, Dharmendra Pratap Singh

Counsel for Opposite Party :- G.A., Jai Prakash Singh, Raj Kiran Chaudhary

Hon'ble Sameer Jain, J.

1. Rejoinder affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Dharmendra Pratap Singh, learned counsel for the applicant, Sri Jai Prakash Singh, learned counsel for the informant and Sri Ravi Kant Kushwaha, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 30 of 2022, under Sections 376, 506 IPC and Section 67A of I.T. Act, Police Station Mahila Thana, District Varanasi during pendency of the trial.
4. FIR of the present case was lodged on 03.12.2022 against applicant and according to the FIR applicant was the tenant in the house of the informant, who was a major lady and under the threat to viral her video, which was procured by him while she was taking bath, started making physical relationship with her and also prepared her indecent video and photo of physical relationship and under the threat to viral the same, he duped more than Rs. 5 lakhs from her.
5. It is further mentioned in the FIR that on 14.11.2022 applicant sent the indecent video and photo of the victim to her school where she was teacher, therefore, she was fired from the job. It is further mentioned in the FIR that applicant also sent the indecent video and photo of the victim to his friend.
6. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless

and admittedly victim i.e. informant of the case is major and married lady and her consent is quite apparent from the record.

7. He further submits that however during investigation the alleged obscene video and photo of the victim were recovered but from perusal of the same it cannot be said that applicant forcefully made physical relationship with her and even from the photographs at the worst, it appears that applicant and victim were in consensual relationship.

8. He further submits that from the record and from the alleged recovered video no offence under Section 376 IPC is made out against the applicant and at the worst applicant can be made accused for offence under Section 67-A of I.T. Act, in which, maximum punishment is five years.

9. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 19.01.2023 i.e. almost a year.

10. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submits that applicant spoiled the entire life of the victim and forcibly made physical relationship with her and sent her video not only to his friends but also to the school where victim was teacher and due to the illegal activities of the applicant, informant was removed from her job but both the counsels could not dispute the fact that admittedly victim i.e. informant of the case is major and married lady and applicant is her tenant.

11. Learned counsel for the informant further could not dispute the fact that from the alleged video, which was alleged to have been sent by the applicant to school, it reflects that both were in consensual relationship.

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

13. However, from the record it reflects that the indecent video of the victim was sent to her school where she was teacher and thereafter she was removed from the job but from the statement of the teacher of the school, which was annexed along with counter affidavit filed by the informant, it reflects that in the alleged video and photographs, the victim i.e. informant of the case was along with applicant and from the statement of the teacher it reflects that both were in consensual relationship.

14. Further, informant i.e. victim of the case is major and married lady and at this stage, it cannot be said that she was not the consenting party especially after considering the statement of the teacher of her school, which has been appended along with counter affidavit filed by the informant.

15. Further, from perusal of the Section 67-A of I.T. Act, it reflects that maximum punishment provided is five years and applicant is not having any criminal history and in the present matter he is in jail since 19.01.2023 i.e. since almost a year.

16. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

17. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

18. Let the applicant - **Ranjan Kumar Jha** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

19. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

20. 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 :- 2.12.2023

AK Pandey