

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12570 of 2023

Applicant :- Jangi Kori

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

Counsel for Applicant :- Ashutosh Srivastava, Anil Kumar, Arvind Kumar Maurya

Counsel for Opposite Party :- G.A., Shailendra Singh

Hon'ble Sameer Jain, J.

1. Heard Sri Anil Kumar, learned counsel for the applicant, Sri Shailendra Singh, learned counsel for the informant and Sri Pradeep Kumar, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 516 of 2022, under Sections 354A, 376, 504, 506 IPC and 7/8, 4 POCSO Act, Police Station Karwi Kotwali Nagar, District Chitrakoot during pendency of the trial.

3. FIR of the present case was lodged against applicant and one another and according to the FIR applicant on 06.12.2022 after entering in the hut of the informant made sexually assault upon his daughter aged about 15 years.

4. Learned counsel for the applicant submitted that neither in the FIR nor in the statement of the victim recorded under Section 161 Cr.P.C. there was any allegation of rape against the applicant but when the statement of the victim under Section 164 Cr.P.C. was recorded then she made allegation of rape against the applicant.

5. He further submits that this fact clearly suggests that applicant has falsely been implicated in the present matter. He further submits that however applicant is having criminal history of four cases but his criminal history has been explained in para-20 of the affidavit and out of four cases, two cases were of Excise Act and one case of Section 110 Cr.P.C. and last one case was of Sections 419, 420, 328 IPC and in the present matter he is in jail since 16.12.2022 i.e. for almost a year.

6. Per contra, learned AGA as well as learned counsel for the

informant opposed the prayer for bail and submits that victim is hardly 15 years old but could not dispute the fact that for the first time victim in her statement recorded under Section 164 Cr.P.C. made allegation of rape against the applicant.

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

8. However, from the record, it reflects that apart from the present case applicant is having criminal history of four cases but out of four cases, two cases were of Excise Act and one case was of Section 110 Cr.P.C. and last one case was of Sections 419, 420, 328 IPC and out of four cases in three cases he has already been enlarged on bail and the case relates to Section 110 Cr.P.C. has already been concluded.

9. Further, however, victim is aged about 15 years and she in her statement recorded under Section 164 Cr.P.C. made allegation of rape against applicant but neither in the FIR nor in her statement recorded under Section 161 Cr.P.C. there was any allegation of rape against the applicant.

10. Further, applicant in the present matter is in jail since 16.12.2022 i.e. for last almost a year.

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

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

13. Let the applicant - **Jangi Kori** 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.

14. 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.

15. 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 :- 7.12.2023

AK Pandey