

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14408 of 2023

Applicant :- Sunil

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

Counsel for Applicant :- Chandra Jeet Singh, Devesh Kumar Verma, Ravi Shankar Tripathi, Suresh Chandra Verma

Counsel for Opposite Party :- G.A., Subhash Chandra Tiwari

Hon'ble Sameer Jain, J.

1. Heard Sri R.S. Tripathi, learned counsel for the applicant, Subhash Chandra Tiwari, learned counsel for the informant and Sri Pradeep Kumar, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 773 of 2022, under Sections 363, 366, 376(3) IPC & 5(L)/6 POCSO Act, Police Station-Ujhani, District- Budaun, during pendency of the trial in the court below.
3. FIR of the present case was lodged against the applicant and three others and according to the FIR, applicant enticed away the daughter of the informant aged about 14 years with the help of other accused persons.
4. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and actually she herself had gone along with the applicant and also performed marriage with him and this fact is evident from her both the statements recorded under Section 161 Cr.P.C. and 164 Cr.P.C. He further submitted that however as per the school record of the victim and even according to the report of CMO concerned, age of the victim was 15 years but in her both the statements recorded during investigation, she did not make any allegations against the applicant.
5. He further submitted that applicant is not having any criminal history and he is in jail since 19.11.2022 i.e. for last more than a year and according to the victim, she herself had performed marriage with the applicant, therefore, applicant should be released on bail.

6. Per contra, learned AGA opposed the prayer for bail and submitted that victim is hardly 15 years' old and on the other hand applicant was mature adult aged about 23 years' old and he enticed away the victim and thereafter performed marriage with her therefore, considering the age of the victim and applicant, applicant should not be released on bail.

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

8. However, applicant is in jail for last more than one year and victim in her both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. stated that she herself had gone along with the applicant and also performed marriage with him but applicant is 23 years' old mature adult while on the other hand, victim is hardly 15 years' old child and therefore, it appears that applicant enticed her away.

9. Therefore, considering the facts and circumstances of the case discussed above, particularly the age of the victim and applicant, I am not inclined to release the applicant on bail at this stage.

10. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **rejected** at this stage.

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 a year, 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 Sections 35 POCSO Act and 309 Cr.P.C. on day-to-day basis without granting any unnecessary adjournment to either of the parties, if there is no legal impediment.

Order Date :- 6.12.2023

KK Patel