

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14326 of 2023

Applicant :- Pradyumn Rajbhar

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

Counsel for Applicant :- Ambrish Mishra, Vinod Kumar Shukla

Counsel for Opposite Party :- G.A., Pooja

Hon'ble Samit Gopal, J.

1. List revised.
2. Heard Sri Vinod Kumar Shukla, learned counsel for the applicant, Ms. Pooja, learned counsel for the first informant, Sri Ram Prakash Shukla, learned counsel for the State and perused the material on record.
3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant-Pradyumn Rajbhar, seeking enlargement on bail during trial in connection with Case Crime No.07 of 2023, under Section 376 I.P.C. and Section 3/4 POCSO Act, registered at Police Station Rohaniya, District Varanasi.
4. The FIR of the matter was lodged on 7.1.2023 by Smt. Mira Devi against the applicant alleging therein that on 5.1.2023 at about 9 p.m. her daughter aged about 18 years had gone to bring something from the shop where the applicant lives in the house of his sister and does the work of labour, gagged her mouth and took her near the gate of the house of Prem Chand Sharma and committed rape upon her. When her daughter came back, she told her about the incident.
5. Learned counsel for the applicant argued that that FIR was lodged under Section 376 IPC. It is argued that the applicant has been falsely implicated in the present case. It is argued that subsequently during investigation supplementary medico legal report of the victim was given in which the victim was found to be 16-17 years of age and thus the provisions of POCSO Act were added in the present case. The victim by giving benefit of variation of two years would be a major girl. It is argued that the implication of the applicant in the present case is a false implication since the

family members of the informant are very rowdy and quarrelsome persons and they keep harassing to the family members of applicant's sister unnecessarily and only with an intention of quarreling to grab the piece of land of the property of the sister of the applicant, he has been implicated, para 13 of the affidavit has been placed before the Court. It has also been pointed out that the applicant is not having any criminal history as stated in para 11 of the affidavit and is in jail since 8.1.2023.

6. Per contra learned counsel for the first informant and learned counsel for the State vehemently opposed the prayer for bail and argued that the victim has supported the prosecution case in her statements under Section 161 Cr.P.C. and 164 Cr.P.C. The applicant is named in the FIR and in the statements of the victim recorded during investigation. There is no reason for false implication. The motive, if any, was with the sister of the applicant and not with the applicant. There is no ground for bail, as such bail application of the applicant be rejected.

7. After hearing the counsel for the parties and perusing the record, it is evident that the applicant is named in the FIR. The victim has been opined to be a minor as per supplementary medico legal report. She has supported the prosecution case during investigation. There is no good ground worth convincing for false implication of the applicant.

8. Looking to the facts and circumstances of the case, I do not find it a fit case for bail, hence, the bail application is **rejected**.

(Samit Gopal, J.)

Order Date :- 7.12.2023

Gaurav Kuls