

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 22462 of 2022

Applicant :- Kuldeep

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

Counsel for Applicant :- P.K. Singh, Nishith Tripathi, Sarvesh Kumar Dubey

Counsel for Opposite Party :- G.A., Varad Nath

Hon'ble Sameer Jain, J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Sri Sunil Vasisth, Advocate, submitted that he has filed his power today on behalf of the informant in the office of this Court, therefore, his name could not be shown in the cause list.
3. Heard Sri P.K. Singh, learned counsel for the applicant, Sri Sunil Vasisth, learned counsel for the informant and Sri R.N. Srivastava, learned AGA for the State-respondent.
4. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 117 of 2022, under Sections 376(1), 504, 506 IPC 3/4 POCSO Act, Police Station- Maharajpur, District- Kanpur Nagar, during pendency of the trial in the court below.
5. FIR of the present case was lodged against the applicant and others and according to the FIR, applicant under the false promise of marriage for last four years was continuously sexually exploiting the informant and stated to her that when she will attain the age of 18 years, he will perform marriage with her and on 31.03.2022, he refused to perform marriage with her.
6. Learned counsel for the applicant submitted that entire allegation of sexual exploitation made against the applicant is totally false and admittedly at the time of lodging of FIR, victim i.e. informant of the case was major and on the basis of stale allegation, applicant has been made accused in the present matter.
7. He further submitted that during the pendency of the instant bail

application, applicant was released on interim bail on 31.01.2023 for the period of six months and thereafter he was released on 15.03.2023 and thereafter he surrendered on 21.09.2023 after seven days from of six months period from the date of release and he could not appear before the trial court in time only due to strike of lawyers of the district concerned.

8. He further submitted that applicant never misused the liberty of interim bail granted to him and he was also a young lad aged about 18-19 years at the time of incident and it was a case of love affair but subsequently some dispute arose between applicant and informant and thereafter FIR of the present case was lodged.

9. He further submitted that applicant is not having any criminal history and in the present matter, he is in jail since 21.09.2023.

10. Per contra, learned AGA as well as learned counsel for the informant although, opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

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

12. It reflects that at the time of lodging of the FIR, victim has attained the age of majority and on the basis of stale allegation of four years' old, victim lodged the FIR of the present case and even, it appears that at that time applicant was hardly aged about 18 years and earlier during the pendency of the instant bail application, he was released on interim bail and there is no material available on record, on the basis of which this Court can infer that he misused the liberty of interim bail granted to him by this Court. Further, applicant is not having any criminal history.

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

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

15. Let the applicant- **Kuldeep** 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.

16. 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.

17. 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 :- 2.11.2023

KK Patel