

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 22083 of 2023

Applicant :- Satpal Maharaj Pujari

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

Counsel for Applicant :- Abu Bakht, Syed Ahmed Faizan

Counsel for Opposite Party :- G.A., Nand Kishor Mishra, Shilpa Ahuja

Hon'ble Samit Gopal, J.

1. Heard Sri Neeraj Srivastava, Advocate holding brief of Sri Abu Bakht, learned counsel for the applicant, Ms. Shilpa Ahuja, learned counsel for the first informant and Sri Ajay Singh, learned A.G.A.-I for the State and perused the material on record.

2. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant- **Satpal Maharaj Pujari**, seeking enlargement on bail during trial in connection with Case Crime No. 408 of 2021, under Section 376 I.P.C. and Section 3/4 & 17 of the Protection of Children from Sexual Offences Act (POCSO Act), Police Station Naugawan Sadat, District Amroha.

3. The first information report of the present matter was lodged on 29.09.2021 by Smt. Usha Devi against the applicant and Bunty on the basis of an application u/s 156 (3) Cr.P.C. alleging therein that on 13.07.2021 at about 10.30 a.m. the applicant who was a pujari in an Aashram lured her daughter, took her away and committed rape. She is a mentally retarded girl. She was searched by persons and was then informed that her daughter has been taken to the Aashram where they went and found the applicant committing rape upon her on which he was challenged and then he left her.

4. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that the first information report has been lodged after an unexplained delay of about 02 months & 16 days. It is argued that the applicant is a handicapped person having only one hand and as such it was not possible for him to commit rape upon the victim. It is argued that in so far as co-accused Bunty is concerned, the allegation against him is that he was standing at guard outside when the applicant was committing rape. It is argued that the victim has denied identifying co-accused Bunty. It is argued that trial in the present matter has started in which two witnesses namely Usha Devi the first informant and the victim have been examined as P.W.-1 & P.W.-2 respectively and there are contradictions in their statements. The said statements have been placed before the Court which are annexed as Annexure-9 to the affidavit. It is argued that looking to the same, the applicant may be granted bail. The applicant has no criminal history as stated in para 31 and is in jail since 25.09.2022.

5. *Per contra*, learned counsel for the first informant and learned counsel for the State have vehemently opposed the prayer for bail and argued that victim is aged about 17 years and is a minor. She is a mentally retarded girl. The applicant is named in the first information report and also in the statement of the victim during investigation, further in the statement of the first informant and the victim recorded in the trial. The role assigned to the applicant is of taking her away and committing rape. Learned counsel for the first informant informs the Court that the statement of the accused u/s 313 Cr.P.C. has already been recorded and trial is at the verge of conclusion. It is argued that the bail be rejected.

6. After having heard learned counsel for the parties and perusing the record, it is evident that the applicant is named in the first information report, statement of the victim during investigation and also in the statement of the first informant & victim in the trial. Two witnesses have been examined in the trial. The victim has supported the prosecution case. The trial is under progress. The release of the applicant at this stage will not be in the fitness of things.

7. Looking to the facts and circumstances of the case, this Court does not find it a fit case for bail, hence, the bail application is **rejected**.

Order Date :- 14.12.2023

AS Rathore

(Samit Gopal,J.)