

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 20550 of 2023

Applicant :- Vasudev Vishwakarma

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

Counsel for Applicant :- S.P. Vishwakarma, Indresh Chandra, Kunwar Abhishek Singh, Suresh Pratap Singh

Counsel for Opposite Party :- G.A., Pramod Kumar Singh, Tripathi B.G. Bhai

Hon'ble Sameer Jain, J.

1. None appeared on behalf of the informant even in revised call. However, learned AGA for the State is present.
2. Heard Sri Kunwar Abhishek Singh, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 24 of 2023, under Sections 376(3), 506 IPC & 5(j)(II)/6 POCSO Act, Police Station- Itwa, District- Siddharth Nagar, during pendency of the trial in the court below.
4. FIR of the present case was lodged against applicant and according to the FIR, applicant is the distant relative of the informant and on 16.08.2022, he committed rape with the daughter of the informant aged about 12 years and due to rape committed by him, she became pregnant.
5. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and due to enmity, applicant has been made accused in the present matter. He further submitted that although, victim in her both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. made allegation of rape against the applicant but as she is minor girl aged about 12 years, therefore, under the pressure of her parents, she stated against the applicant.
6. He further submitted that applicant is not having any criminal history and he is in jail since 17.02.2023.

7. Per contra, learned AGA opposed the prayer for bail and submitted that victim is hardly 12-13 years' old girl and due to sexual exploitation of the applicant, she became pregnant and she also made allegation of rape in her both the statements recorded during investigation, therefore, applicant is not entitled to be released on bail.

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

9. Considering the fact that victim is hardly 13 years' old girl and applicant is 40 years' old grownup man and he sexually exploited the victim and due to his sexual exploitation, she became pregnant, in my view, applicant is not entitled to be released on bail.

10. Accordingly, the instant bail application is **rejected**.

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.

Order Date :- 3.11.2023

KK Patel