

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 27331 of 2022

Applicant :- Danveer

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

Counsel for Applicant :- Safiullah,Rakesh Kumar Verma

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Sri R.N. Srivastava, learned AGA for the State apprised the Court that on 10.08.2022 notice has been served to the informant of the case. Despite service of notice, none appeared on behalf of the informant.
2. Heard Sri Rakesh Kumar Verma, learned counsel for the applicant and Sri R.N. Srivastava, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 485 of 2021, under Sections 450, 376, 506 IPC & 3/4 POCSO Act, Police Station- Bilari, District- Moradabad, during pendency of the trial in the court below.
4. FIR of the present case was lodged against applicant and according to the FIR, on 31.10.2021 at about 10:00 in the night applicant after entering in the house of the informant abducted his niece aged about 15 years and committed rape upon her.
5. Learned counsel for the applicant submitted that on the basis of false allegation, applicant was made accused in the present matter and however, victim and informant supported the version of the FIR in their statements under Sections 161 Cr.P.C. and victim also in her statement recorded under Section 164 Cr.P.C. repeated the version of the FIR but when victim and informant both appeared before the trial court then both did not support the prosecution case. He further submits, victim appeared as P.W. 2 and since beginning in examination-in-chief she did not support the prosecution case and has been declared hostile, however, informant supported the version of the FIR in her examination-in-chief but during her cross-examination she did not support the

prosecution case.

6. He further submitted that as victim of the case has already turned hostile, therefore, no evidence left against the applicant.

7. He further submitted that applicant is not having any criminal history and he is in jail since 02.11.2021 i.e. for more than two years.

8. Per contra, learned AGA although, opposed the prayer for bail but could not dispute the fact that victim of the case when appeared before the trial court then did not support the prosecution case and has been declared hostile and applicant is in jail for last more than two years and he is not having any criminal history.

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

10. Considering the fact that victim of the case when appeared before the trial court then she did not support the prosecution case and has been declared hostile and applicant is not having any criminal history and he is in jail for last more than two years, in my view applicant is entitled to be released on bail.

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

12. Let the applicant- **Danveer** 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.

13. 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.

14. 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 :- 5.12.2023

KK Patel