

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 34088 of 2021

Applicant :- Jeetu@ Jai Kumar

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Ashish Singh, Chandra Prakash Singh, Farough Ahmad

Counsel for Opposite Party :- G.A., Ravindra Kumar

Hon'ble Sameer Jain, J.

1. None appeared on behalf of the informant even in revised call.
2. Heard Sri Farokh Ahmad, learned counsel for the applicant and Sri Ghanshyam Mishra, learned Brief Holder for the State.
3. The instant bail application has been filed on behalf of the applicant seeking release on bail in Case Crime No. 02 of 2019 under sections 363, 366, 376 (3), 323, 506 IPC and 5/6 of POCSO Act, Police Station Kasna, District Gautam Budh Nagar.
4. FIR of the present case was lodged against the applicant and two others and according to the FIR, applicant enticed away the daughter of the informant aged about 13 years.
5. Learned counsel for the applicant submits that entire allegations made against the applicant are totally false and applicant neither enticed away the daughter of the informant nor he ever committed rape with her.
6. He further submits actually applicant and victim were having friendship and subsequently, under the pressure of her parents, she started making allegations of rape against the applicant and this fact is evident from her statements recorded during the investigation and the story narrated by her appears to be quite improbable. He next submits that applicant was also aged about 19-20 years at the time of the incident and he is not having any previous criminal history and is in jail since 19.1.2021 i.e. for more than two and a half years.
7. *Per Contra*, learned A.G.A. opposed the prayer for bail and submits that according to the school record, victim was hardly 13 years of age and she has made allegations of rape against the applicant but he could not dispute the fact that as per ossification test report of the victim, she was around 17 years old and although she made allegations of rape against the applicant but from the statement of the victim, it appears that she accompanied the applicant. He further could not dispute the fact that applicant is not having any previous criminal history and is in jail since 19.1.2021.
8. I have heard both sides and perused the record of the case.
9. However, from the school record of the victim, it appears that she was around 13 years old but according to the doctor, her age is around 16 to 17

years, therefore, there are contradictions in both the ages of the victim based on the school report and her ossification test report.

10. Further, however, in both the statements of the victim recorded during investigation, she made allegation of rape against the applicant but the story narrated by her does not inspire confidence and from her statements, it reflects that she accompanied the applicant.

11. Further, at the time of the incident, the applicant also appears to be around 19-20 years old and he is not having any previous criminal history and is in jail since 19.1.2021 i.e. for more than two and a half years.

12. Therefore, considering the facts and circumstances of the case as discussed above particularly the long incarceration of the applicant i.e. for more than two and a half years, I am of the view that applicant is entitled to be released on bail.

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

14. Let the applicant **Jeetu@ Jai Kumar** 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.

15. In case of breach of any of the above conditions, the prosecution will be at liberty to move an application before this Court for cancellation of bail of the applicant.

16. 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 :- 6.11.2023

Madhurima