

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 31487 of 2022

Applicant :- Pankaj Gautam

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohammad Danish, Arun Kumar, Arvind Kumar Srivastava

Counsel for Opposite Party :- G.A., Hridai Narayan Sharma, Keshav

Hon'ble Sameer Jain, J.

1. None appeared on behalf of the informant even in revised call.
2. Heard Shri Arvind Kumar Srivastava, learned counsel for the applicant and Shri Pradeep Kumar, learned A.G.A. for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No.0049 of 2020, under Sections 376, 506 IPC, Police Station Pannuganj: Shamli, District Jaunpur, during pendency of the trial in the court below.
4. FIR of the present case was lodged on 22.05.2020 against applicant and according to the FIR, informant was a married lady and about 8-9 months before applicant committed rape upon her and thereafter several times he sexually exploited her and prepared her obscene videos and photographs.
5. Learned counsel for the applicant submits that entire allegations made against applicant are totally false and

baseless and this fact is itself evident from the FIR as well as from the statements of the informant i.e. victim of the case recorded under Sections 161 and 164 Cr.P.C. as story narrated by her appears to be improbable and no reliance can be placed on such version.

6. He further submits that actually applicant and niece of the informant i.e. victim of the case were having love affair and niece of the informant had herself gone alongwith the applicant and only due to this reason on the instigation of his sister i.e. mother of her niece, informant lodged the FIR of the present case.

7. He further submits that applicant is having criminal history of one case, which was lodged by the Jija of the informant against the applicant and his criminal history has been explained in the instant bail applicant and he is in jail in the present matter since 17.05.2022 i.e. for almost one and a half years.

8. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that informant i.e. victim of the is a major and married lady and FIR of the present case was lodged after several months.

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

10. However, there is allegation of rape and sexual exploitation against the applicant in the FIR as well as in both the statements of the informant i.e. victim of the case recorded under Sections 161 and 164 Cr.P.C. but story

narrated by her does not appear to be convincing.

11. Further, FIR of the present case was lodged after several months.

12. Further, applicant is having criminal history of one case, which was lodged by the Jija of the informant against the applicant but his criminal history has been explained in the instant bail applicant and he is in jail in the present matter since 17.05.2022 i.e. for almost one and a half years.

13. Therefore, considering the facts and circumstances, 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- **Pankaj Gautam**, 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 :- 6.12.2023
Zafar