

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 27673 of 2023

Applicant :- Gangadeen

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

Counsel for Applicant :- Shyam Babu Vaish

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Sri Pradeep Kumar, learned AGA for the State apprised the Court that on 09.06.2023 notice has been served to the informant of the case. Despite service of notice, none appeared on behalf of the informant.
2. Heard Sri Shyam Babu Vaish, 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. 23 of 2023, under Sections 376(3), 452, 506 IPC & 3/4 POCSO Act, Police Station-Kaushambi, District- Kaushambi, during pendency of the trial in the court below.
4. FIR of the present case was lodged on 27.03.2023 against applicant and according to the FIR, in the absence of the informant, applicant entered her house on 24.03.2023 and committed rape with her daughter aged about 14 years.
5. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and only due to *village party bandi*, he has been made accused in the present matter. He further submits, however, victim in her both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. stated that applicant committed rape upon her but she was 14 years' old girl and, therefore, it appears, under the pressure of her mother, she made allegation of rape against the applicant.
6. He further submitted that applicant is not having any criminal history and he is in jail since 29.03.2023.
7. Per contra, learned AGA opposed the prayer for bail and

submitted that victim was hardly 14 years' old and she in her both the statements recorded during investigation categorically stated that after entering in her house in the absence of her mother, applicant committed rape upon her and applicant failed to bring any good reason for his false implication, therefore, he does not deserve 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 14 years' old girl and she made allegation of rape in her both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. and applicant could not bring any good reason for his false implication, in my view applicant is not entitled to be released on bail.

10. Accordingly, without expressing any opinion on the merits of the case, 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 :- 14.12.2023

KK Patel