

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 34373 of 2022

Applicant :- Ramdulare

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

Counsel for Applicant :- Sudhir Kumar Agarwal, Satya Prakash Shukla, Saurabh Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. The instant matter also pertains to the provisions of POCSO Act and Section 376(A)(B) I.P.C. but from the order dated 5.1.2023, it appears that despite service of notice none appeared on behalf of the informant.
2. Heard Sri Satya Prakash Shukla, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 47 of 2022, under Sections 376AB, 506 IPC and Section 5M/6 POCSO Act, Police Station Beejpur, District Sonbhadra during pendency of the trial.
4. FIR of the present case was lodged against applicant under Section 354, 504 IPC and Section 7/8 POCSO Act and according to the FIR applicant tried to outrage the modesty of the daughter of the informant aged about 10 years.
5. Learned counsel for the applicant submits that entire allegation made against the applicant is totally false and applicant is 72 years old person and he is the neighbour of the informant and a dispute with regard to land is pending between both the side and therefore applicant has been made accused in the present matter.
6. He further submits that neither in the FIR nor in the statement of the victim recorded under Section 161 Cr.P.C. there is allegation

of rape against the applicant but when the statement of victim was recorded under Section 164 Cr.P.C. she started making allegation of rape against the applicant.

7. He further submits that applicant is 72 years old man and allegation of rape made against him in the statement of the victim recorded under Section 164 Cr.P.C. then prima facie appears to be false.

8. He further submits that applicant is not having any criminal history and he is in jail since 21.5.2022 i.e. for almost 1-1/2 years.

9. Per contra, learned AGA opposed the prayer for bail and submits that victim in her statement recorded under Section 164 Cr.P.C. made allegation of rape against the applicant but could not dispute the fact that she in her statement under Section 161 Cr.P.C. did not make any allegation of rape against the applicant. He further could not dispute the fact that applicant is aged about 72 years old person and he is in jail since 21.5.2022 i.e. for almost 1-1/2 years.

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

11. Although, victim appears to be hardly 10 years old girl and she made allegation of rape against the applicant in her statement recorded under Section 164 Cr.P.C. but she did not make any allegation of rape against the applicant in her statement under Section 161 Cr.P.C.

12. Further, applicant appears to be aged about 72 years old and he is in jail since 21.5.2022 i.e. for almost 1-1/2 years.

13. Therefore, considering the facts and circumstances of the case 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 - **Ramdulare** 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 :- 12.10.2023

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