

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 35225 of 2022

Applicant :- Suraj Kumar

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

Counsel for Applicant :- Chandra Prakash Misra, Sanjeev Kumar Singh, Sushil Kumar Mishra

Counsel for Opposite Party :- G.A., Dharendra Pratap Singh

Hon'ble Sameer Jain, J.

1. None appeared on behalf of the informant even in revised call.
2. Heard Shri Sanjeev Kumar Singh, 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.282 of 2022, under Sections 376, 323, 504, 506 IPC, Police Station Shahpur, District Gorakhpur, during pendency of the trial in the court below.
4. FIR of the present case was lodged on 08.07.2022 against applicant and others and according to the FIR, for last five years applicant was sexually exploiting the minor daughter of the informant and due to his sexual exploitation, she also conceived. It is further mentioned in the FIR that on 03.06.2022 by playing fraud, applicant performed marriage with the victim in the temple and now he is not taking her vidaai.

5. Learned counsel for the applicant submits that entire allegations made against applicant are totally false and baseless and from perusal of the FIR, it appears that it is based on incorrect facts and no reliance can be placed on such version.

6. He further submits that admittedly victim is major and even her consent is quite apparent from the record and applicant never sexually exploited her.

7. He further submits that during pendency of the instant bail application, applicant was released on interim bail for six months by Co-ordinate Bench of this Court vide order dated 12.10.2022 to settle his dispute with the informant and victim and after released on bail, he tried to settle his dispute and in this regard he also moved several applications before the court concerned but neither informant nor victim turned up.

8. He further submits that applicant is not having any criminal history and he was released on interim bail for six months, therefore, he surrendered on 08.05.2023 and since then he is in jail.

9. Per contra, learned AGA opposed the prayer for bail and submits that it is a case of sexual exploitation, in which the minor girl was being sexually exploited by the applicant for several years and due to sexual exploitation, she also conceived and from the statements of the victim recorded during investigation, it reflects that applicant had performed his second marriage and therefore, it reflects that after using the victim of the case, applicant left her and any how by

stating incorrect facts before this Court on 12.10.2022 he obtained an order for interim bail and he appeared only before the court concerned when this Court directed him to appear and these facts clearly suggests that applicant misused the liberty of short-term bail granted to him and he spoiled entire life of the victim and therefore, he should not be released on bail.

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

11. From the record, it reflects that on 12.10.2022 applicant was released on interim bail for a period of six months as he submitted before this Court that he willing to settle his dispute with the informant and victim and it appears that on 02.05.2023 this Court directed the applicant to file custody certificate as till date that he did not surrender and it appears that after the order passed by this Court applicant appeared before the court concerned on 08.05.2023 and this fact corroborates the version of the learned A.G.A. that applicant himself did not appear before the court concerned even after expiry of the period of short-term bail, which was granted by this Court to him.

12. Further, it reflects from both the statements of the victim recorded under Sections 161 and 164 Cr.P.C. that she categorically stated that applicant sexually exploiting her and due to his sexual exploitation, she also conceived and she was also having nine months child of the applicant in her womb and subsequently, he refused to perform marriage with her.

13. It is further stated by the victim that applicant had also performed marriage with some other lady and applicant in the entire bail application did not controvert this fact.

14. From the record, prima-facie it appears that applicant sexually exploited the victim, who was minor at that time and she also conceived with him, therefore, I am not inclined to release the applicant on bail.

15. Accordingly, without expressing any opinion on the merits of the case, the instant bail application filed by applicant- **Suraj Kumar** is **rejected**.

Order Date :- 2.12.2023
Zafar