

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 31249 of 2023

Applicant :- Pradumn

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

Counsel for Applicant :- Piyush Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Copy of statement of the victim under Section 164 Cr.P.C. produced by learned AGA, is taken on record.
2. As per office report dated 05.09.2023, notice of the instant application has been served upon the opposite party no.2-informant on 10.08.2023. However, when the case is taken up no one appears on his behalf nor any counter affidavit has been filed.
3. Heard learned counsel for the applicant and learned AGA for the State-respondent.
4. The instant bail application under Section 439 Cr.P.C. has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 154 of 2023, under Sections 363, 366, 120-B IPC and Section 16/17 POCSO Act, Police Station Paniyara, District Maharajganj, during the pendency of trial.
5. Counsel for the applicant submits that the applicant was not named in the first information report. The victim in her statement under Sections 161 Cr.P.C. and 164 Cr.P.C. has levelled the allegations of sexual assault against the named co-accused Ritik Roshan. The only allegation against the applicant is that he assisted the named co-accused in abduction. Placing reliance upon the statement of the victim under Section 161 Cr.P.C. it is contended that the victim was in relationship with the named co-accused Ritik Roshan and had travelled with him at number of places. The named co-accused Ritik Roshan has been granted bail by this Court in Criminal Misc. Bail Application No. 31699 of 2023 vide order dated 19.07.2023. The case of the applicant is on a better footing to that of co-accused Ritik Roshan. The applicant is in jail since 09.06.2023 having no criminal history and in case he is enlarged on bail, he will not misuse the said liberty.
6. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

7. Having heard counsel for the parties and having perused the record, this Court prima facie finds that the victim has levelled allegation of sexual assault against the co-accused. The allegation against the applicant is that he assisted the co-accused in abduction. At present there is no substantive evidence against the applicant. The applicant has no criminal antecedents. Further, the applicant has remained confined for more than four months and after submission of the charge-sheet there is no hope of early conclusion of trial, more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper with the evidence or delay the trial or intimidate the witness, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

8. Let the applicant **Pradumn**, involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that he:

(i) shall appear on the date fixed by the trial court;

(ii) shall not tamper with the prosecution evidence;

(iii) shall not pressurize the prosecution witnesses.

9. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 31.10.2023

Lbm/-