

Court No. - 48

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 33869 of 2023

Applicant :- Kishan Maurya

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

Counsel for Applicant :- Kalim Uddin,Hitesh Pachori

Counsel for Opposite Party :- G.A.,Ayub Khan,Sanjay Agarwal

Hon'ble Saurabh Shyam Shamsbery,J.

1. Heard Sri Hitesh Pachori, learned counsel for applicant, Sri Ashish Kumar Ojha, Brief Holder for State and Sri Ayub Khan, Advocate for Informant.

2. This is second bail application filed by applicant-Kishan Maurya in Case Crime No. 16 of 2023, under Sections 376, 506, 509 IPC and 3/4 POCSO Act, Police Station Malpura, District Agra. First bail application of applicant was disposed of vide order dated 17.03.2023 by giving following reasons:

“8. Considering that victim is a minor girl who is just less than 16 years and she has specifically stated about offence of rape in her statement recorded under Section 164 Cr.P.C. and also taking note that applicant was prior acquainted with victim and that her statement has not been recorded till date before learned Trial Court, therefore, there is a likelihood that in case of granting bail, applicant may influence the victim, therefore, no case of bail is made out.

9. This bail application is disposed of with direction to learned Trial Court to record the statement of victim expeditiously within a period of eight weeks from today, if there is no legal impediment. Subsequently, applicant is at liberty to approach the learned Trial Court for bail.”

3. Learned counsel for applicant submits that subsequently statement of victim has been recorded. He further submits that in the statement there are material contradictions as well as that on certain issues statement of victim has not supported case of prosecution.

4. Learned Brief Holder for State and learned counsel for Informant have pointed

out that in examination-in-chief victim has specifically supported case of prosecution and other submission would be subject matter of trial.

5. In aforesaid circumstances, since victim has supported case of prosecution in examination-in-chief, therefore, at this stage it would not be appropriate for this Court to venture into deep in cross-examination of victim to appreciate the argument of learned counsel for applicant.

6. The application is accordingly dismissed.

7. However, Trial Court is directed to conclude trial expeditiously, preferably within a period of six months from today, if there is no legal impediment.

Order Date :- 1.11.2023

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