

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 35714 of 2023

Applicant :- Mahendra

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

Counsel for Applicant :- Gambhir Singh,Amit Kumar Verma

Counsel for Opposite Party :- G.A.,Dileep Kumar Shukla

Hon'ble Sameer Jain,J.

1. Heard Sri Amit Kumar Verma, learned counsel for the applicant, Sri Dileep Kumar Shukla, learned counsel for the informant and Sri Kunwar Tejendra Bahadur, learned AGA, for the State.
2. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.331 of 2023, under Section 376 IPC and Section 5M/6 POCSO Act, Police Station Chandausi, District Sambhal during pendency of the trial.
3. FIR of the present case was lodged against the applicant and according to the FIR, applicant made sexual assault upon the daughter of the informant aged about 10 years.
4. Learned counsel for the applicant submits that entire allegation made against the applicant is totally false and baseless and there is no allegation of rape against the applicant and only allegation of sexual assault and although victim is 10 years old but Doctor did not find any injury on her private part.
5. Learned counsel for the applicant further submits that actually with regard to crop of corn a dispute arose between informant and applicant and only due to this reason on the basis of such wild allegation applicant has been roped in the present matter.
6. He further submits that applicant is not having any previous

criminal history and in the present matter he is in jail since 18.6.2023.

7. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that victim was hardly 10 years old girl and as per allegation applicant firstly disrobed her and also removed his cloths and when he was making sexual assault then in the meantime informant and other witnesses arrived at spot and thereafter applicant managed to escape, therefore allegation made against the applicant are serious and general and vague ground of false implication has been taken by applicant, therefore, applicant should not be released on bail.

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

9. Considering the allegation that applicant after disrobing the victim, who is aged about 10 years, also removed his cloths and thereafter made sexual assault upon her and this fact has been witnessed by informant and other witnesses and victim in her both the statements recorded under Section 161 and 164 Cr.P.C. stated against the applicant, in my view, applicant is not entitled to be released on bail.

10. Accordingly, 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 :- 19.10.2023

SKM