

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48331 of 2021

Applicant :- Haseen

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Varinder Singh, Anuj Kumar Gupta

Counsel for Opposite Party :- G.A., Bharat Singh

Hon'ble Sameer Jain, J.

1. Heard Sri Dhanpal Sharma, Advocate holding brief of Sri Anuj Kumar Gupta, learned counsel for the applicant and Sri Brajesh Pratap Singh, learned AGA for the State. However, none present on behalf of the informant even in the revised call.
2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 199 of 2021, under Sections 363, 366, 376, 354Ka, 323, 504, 506 IPC and Section 3/4 POCSO Act, Police Station Dhanari, District Sambhal during pendency of the trial.
3. FIR of the present case was lodged against applicant and others and according to the FIR applicant and others enticed away the daughter of the informant aged about 15 years about a month before and thereafter they have returned his daughter and on 15.09.2021 at about 4.00 PM applicant and other accused persons after entering in the house of the informant tried to abduct the victim.
4. Learned counsel for the applicant submitted that applicant is innocent and entire allegation made against him is totally false and although victim during investigation stated that applicant committed rape with her but when she appeared before the trial court as PW-2 then she did not support the prosecution case and has been declared hostile. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 17.09.2021 i.e. for more than two years.
5. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that during trial victim has declared hostile and applicant is in jail for more than two years.

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

7. Considering the fact that during trial victim did not support the prosecution case and has declared hostile and applicant is not having any criminal history and in the present matter he is in jail since 17.09.2021 i.e. for more than two years, in my view, applicant is entitled to be released on bail.

8. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

9. Let the applicant - **Haseen** 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.

10. 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.

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 :- 13.10.2023

AK Pandey