

Court No. - 85

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 36125 of 2023

Applicant :- Sakib

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

Counsel for Applicant :- Zaid Arshad, Amber Khanna, Raj Kumar Khanna, Virendra Kumar Sonkar

Counsel for Opposite Party :- G.A., Dinesh Kumar Yadav

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the applicant as well as learned A.G.A. for the State and perused the record.

The present second bail application has been filed on behalf of applicant in Case Crime No. 219 of 2022, under Sections 363, 366, 376(3), 328, 323 of IPC and Section 3/4 Protection of Children from sexual offence Act, Police Station Kotwali Nagar, District Saharanpur with the prayer to enlarge the applicant on bail. The first bail application of the applicant was rejected by this Court vide order dated 10.04.2023 passed in Criminal Misc. Bail Application Nos. 9988 of 2023.

It has been argued by learned counsel for the applicant that applicant is innocent and he has been falsely implicated in the present case. It is further submitted that as per medical report age of victim is 19 years therefore 376(3) is not made out against the applicant. The provisions of POCSO Act are also not made out against the applicant. The status report of trial has been brought on record by filing supplementary affidavit which indicates that statement of P.W. 1 informant has been recorded. Applicant is languishing in jail since 08.08.2022 having no criminal history and that in case he is released on bail, he will not misuse the liberty of bail and will cooperate in trial.

Per contra, the learned Additional Government Advocate assisted by learned counsel for the informant have opposed the prayer for grant of bail by contending that the age of victim was 14 years as per School Leaving Certificate and statement of victim is yet to be examined, hence, the applicant is not entitled to be released on bail.

Considering the rival submissions of learned counsel for the parties, nature of allegations, gravity of offence and the fact that all aspects of the matter has already been considered while disposal of

the first bail application and no new ground has been taken in the present second bail application, I do not find it a fit case for bail. Hence, the bail application is hereby **rejected**.

Trial court is directed to record the statement of victim within two months, after receipt of the certified copy of this order without granting unnecessary adjournment to either of the parties subject to full co-operation by the applicant.

Any observation made above shall not be treated as any finding on the merits of the case and shall not prejudice the trial in any manner.

Order Date :- 14.12.2023
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