

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 36695 of 2023

Applicant :- Anil Kumar @ Motoo

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

Counsel for Applicant :- Suhel Ahmad Azmi, Dhiraj Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Pankaj Bhatia, J.

1. Heard Sri Anil Kumar Dubey holding brief of Sri Dhiraj Srivastava, learned counsel for the applicant as well as learned A.G.A. and perused the record. Despite service of notice, no one appears on behalf of the victim.
2. The FIR in question was lodged against the applicant alleging the commission of offence under Section 377 IPC on the son of the informant.
3. The contention of the Counsel for the applicant is that the allegations levelled in the FIR are sequel to the complaint lodged against the informant by one of the family member of the applicant in the year 2018, in which the summons were issued and only to somehow settled the said dispute, the present FIR was lodged.
4. Learned A.G.A. vehemently opposed the bail prayer.
5. On perusal of the FIR, the allegation of commission of offence under Section 377 IPC are made out, however, on perusal of the medical report, which is on record, there is no corroboration with the allegations levelled in the FIR. The statement of the victim could not be recorded as apparently, the victim is mentally challenged, thus, the allegations against the applicant are based upon the statement of the informant. It is also on record that the proceedings were initiated against the family member of the informant through a complaint in the year 2018.
6. Considering the nature of the allegations not being corroborated by any material and the fact that the applicant has no criminal antecedents and is in custody since 03.06.2023, I am of the view that the applicant is entitled to be released on bail.

7. Accordingly, the bail application is ***allowed***.

8. Let the applicant ***Anil Kumar @ Motoo*** be released on bail in FIR/ Case Crime No.189 of 2023, under Sections 377, 342, 506 IPC and Section 5/6 of POCSO Act, Police Station Phoolpur, District Prayagraj on his furnishing personal bonds and two reliable sureties of Rs.25,000/- each to the satisfaction of the court concerned with the following conditions:

(a) The applicant shall execute a bond to undertake to attend the hearings;

(b) The applicant shall not commit any offence similar to the offence of which he is accused or suspected of the commission; and

(c) The applicant shall not directly or indirectly make any 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 to any police officer or tamper with the evidence.

Order Date :- 6.11.2023

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