

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46880 of 2022

Applicant :- Sadanand Sahu @ Saddu

Opposite Party :- State of U.P.

Counsel for Applicant :- Vipin Kumar, Amit Daga

Counsel for Opposite Party :- G.A., Babul Kumar Sharma

Hon'ble Sameer Jain, J.

1. Case called out in revised list. None present on behalf of the informant. However, learned AGA for the State is present.
2. Heard Sri Amit Daga, learned counsel for the applicant and Sri Ghanshyam Mishra, learned Brief Holder for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 164 of 2022, under Sections 376 IPC and Section 67 I.T. Act, Police Station Badagaon, District Jhansi during pendency of the trial.
4. FIR of the present case was lodged on 22.06.2022 against applicant and one another through an application under Section 156(3) Cr.P.C. dated 26.05.2022 and according to the FIR about a year before applicant under the pretext to provide the job made physical relationship with the wife of the informant and prepared her obscene video and under the threat to viral the same sexually exploited her and on 09.04.2022 applicant sent the obscene video of the victim to the mobile phone of the sister of the informant and when informant insisted him to delete the video then he demanded Rs. 2 lakhs.
5. It is further mentioned in the FIR that due to conduct of the applicant in shame, the wife of the informant left her matrimonial home and started living in her paternal home and anyhow informant get her back on 14.06.2022.
6. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and even story narrated by the informant in the FIR appears to be quite improbable and no reliance can be placed on such version. He

further submits that actually applicant and victim both were having illicit relationship and when this fact revealed to the informant i.e. husband of the victim then on 20.04.2022 he filed divorce suit against victim of the case i.e. his wife and applicant, which has been annexed as Annexure-7 to the affidavit filed in support of present bail application as Case No. 346 of 2022 and subsequently application under Section 156(3) Cr.P.C. was moved on 26.05.2022.

7. He next submits that even FIR of the present case was lodged after about a year through an application under Section 156(3) Cr.P.C. and even application under Section 156(3) Cr.P.C. was moved after a year. He further submits that even from the statement of the victim at this stage it cannot be said that she was not the consenting party.

8. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 24.08.2022 i.e. for last more than a year.

9. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that victim is wife of the informant and her consent is apparent from the record. He further could not dispute the fact that FIR of the present case was lodged after more than a year through an application under Section 156(3) Cr.P.C. and even application under Section 156(3) Cr.P.C. was moved after more than a year.

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

11. However, victim of the case i.e. wife of the informant made allegation of sexual exploitation against applicant in her both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. but she is major and married lady and story narrated by her does not appear to be convincing.

12. Further, FIR of the present case was lodged after more than a year through an application under Section 156(3) Cr.P.C. and even application under Section 156(3) Cr.P.C. was moved after more than a year.

13. From the record, it further reflects that even before moving application under Section 156(3) Cr.P.C. informant filed a divorce suit dated 20.04.2022 against his wife, in which, he also made the applicant as one of the opposite party, therefore, defence taken by

the applicant cannot be completely brushed aside at this stage.

14. Further, applicant is not having any criminal history and in the present matter he is in jail since 24.08.2022 i.e. for last more than a year.

15. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

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

17. Let the applicant - **Sadanand Sahu @ Saddu** 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.

18. 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.

19. 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 :- 11.12.2023

AK Pandey