

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 37474 of 2023

Applicant :- Murseed

Opposite Party :- State of U.P.

Counsel for Applicant :- Akash Tomar

Counsel for Opposite Party :- G.A.,Manoj Kumar Dubey

Hon'ble Sameer Jain,J.

1. Heard Sri Akash Tomar, learned counsel for the applicant, Sri Manoj Kumar Dubey, learned counsel for the informant and Sri Tanay Kumar, 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.385 of 2023, under Sections 376 (2)(n),504 and 506 IPC and Section 67A Information Technology Act, 2000, Police Station Sardhana, District Meerut during pendency of the trial.

3. FIR of the present case was lodged against the applicant on 24.5.2023 and according to the FIR, applicant sexually exploited the daughter of the informant under the false promise of marriage but subsequently he and his family members refused to perform marriage. It is further mentioned in the FIR that applicant also prepared obscene videos and photographs of the victim and he also posted the same on social media.

4. Learned counsel for the applicant submits that entire allegation made against the applicant is totally false and baseless and admittedly victim of the case is a major girl and from her both the statements recorded under Sections 161 and 164 Cr.P.C. her consent is reflected.

5. He further submits, there is no evidence on record that either

applicant prepared obscene video clip of the victim or posted the same on social media.

6. He further submits that as per prosecution obscene videos of the victim were sent on Whats-app group in which applicant was not even the member and therefore, applicant could not send these alleged videos of the victim to the Whats-app group.

7. He further submits that although during investigation some obscene videos of victim and applicant were recovered but they were not recovered from the possession of applicant and while collecting electronic evidence mandatory provisions of Section 65 of Indian Evidence Act have not been complied with.

8. He further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 26.6.2023.

9. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that applicant spoiled entire life of victim and even if the victim was major then applicant was not having any licence or authority to make physical relationship with her under the false promise of marriage and he cannot viral the obscene videos of the victim on social media and, therefore, considering the nature of allegation and evidence collected by Investigating Officer during investigation applicant should not be released on bail.

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

11. However, it reflects that victim of the case is a major girl and her consent is also reflected from her both the statements recorded

under Sections 161 and 164 Cr.P.C. but it is a case in which not only physical relationship was developed by applicant with the victim under the false promise of marriage but obscene photographs of the victim were also posted on social media and during investigation the alleged obscene photographs of the victim and applicant were recovered.

13. Learned AGA also pointed out during the course of argument that during investigation the brother of the applicant handed over the pan drive to Investigating Officer which contained the vulgar obscene videos of applicant and victim, therefore, I find force in the argument advanced by the learned counsel for the informant and the learned AGA that applicant spoiled entire life of the victim.

14. Therefore, considering the facts and circumstances of the case, particularly the conduct of applicant, in my view, applicant is not entitled to be released on bail at this stage.

15. Accordingly, the instant bail application is **rejected** at this stage.

16. 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 :- 16.10.2023

SKM