

Neutral Citation No. - 2023:AHC:204374
Reserved on 18.10.2023
Delivered on 26.10.2023

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 38995 of 2023

Applicant :- Murtaza

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

Counsel for Applicant :- Haya Rizvi

Counsel for Opposite Party :- G.A.

Hon'ble Siddharth,J.

Heard Sri N.I. Jafri, learned Senior Counsel, assisted by Ms. Haya Rizvi, learned counsel for the applicant; learned AGA for the State and perused the material placed on record.

The instant bail application has been filed on behalf of the applicant, **Murtaza**, with a prayer to release him on bail in **Case Crime No. 485 of 2023, under Sections 354, 376(2)N, 386, 506 IPC and Section 5(L)/6 POCSO Act, Police Station Kotwali Nagar, District- Bulandshahr**, during pendency of trial.

There is allegation in the FIR that the daughter of the informant is a student of B.B.A. in a college at Bulandshahr. Her date of birth is 9.12.2004. On 5.6.2023, the daughter of the informant informed him and his wife that in the year 2020, when she was studying in Class XI, co-accused, Kasim, started talking to her through Instagram. On 9.12.2020, co-accused, Kasim, introduced her to co-accused, Zubair, and the applicant, Murtaza. She started talking with them also. Whenever they used to meet her, they used to talk obscenely with her. After 5-6 months, in the year 2021, the applicant, Murtaza, called her on phone to the place, Kalaaam and took her in a car to a mango grove, where he committed the offence of rape against her in a car. He committed the same offence again on 3.12.2022 in another car and made video of the same. He threatened her that he will make her objectionable video viral, in case she does not comes to him on his calling and thereafter he repeated the alleged offences many times against her. He informed this to co-accused, Kasim and Zubair, also and they started demanding Rs. 1 lac from her on the threat of making her objectionable video viral. On 5.6.2023 the applicant made number of calls on mobile phone of victim and when she came out from the college, he started compelling her to accompany him to Delhi in car. She avoided him with difficulty and narrated the entire story to the

informant. Hence FIR was lodged. In her statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. the victim reiterated the allegations made against the applicant.

Learned Senior Counsel for the applicant has submitted that the victim was a consenting party. She has falsely implicated the applicant in this case. Earlier she had friendship with co-accused, Kasim and thereafter befriended the applicant and co-accused, Zubair. She has made false allegations against the applicant and co-accused. There is no explanation why she did not inform her father earlier. At the time of incident, she was almost 16 years of age and the applicant has criminal history of one case only under Section 354-A, 323, 504 IPC and provisions of POCSO Act. He is in jail since 5.6.2023.

Learned AGA has vehemently opposed the prayer for bail of the applicant and submitted that the applicant and co-accused have been rightly implicated in this case. At the time of first offence in the year 2020, the victim was clearly minor. FIR has been lodged only after the conduct of the applicant became intolerable for the victim. It is not a case of false implication but continuous sexual exploitation of a minor girl.

This Court after hearing the learned counsels for the parties does not find any ground for enlarging the applicant on bail at this stage.

The bail application is accordingly rejected.

The court below is directed to conclude the trial against the applicant, as expeditiously as possible, preferably within a period of one year from the date of production of certified copy of this order.

Order Date :- 26.10.2023

Ruchi Agrahari