

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39238 of 2023

Applicant :- Mukesh

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

Counsel for Applicant :- Brijesh Kumar Pandey, Atharva Dixit

Counsel for Opposite Party :- G.A., Ram Pravesh Yadav

Connected with

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42609 of 2023

Applicant :- Rajendra

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

Counsel for Applicant :- Abhai Saxena

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra, J.

Heard Mr. Atharv Dixit, the learned counsel for applicants, the learned A.G.A. for State and Mr. Ram Pravesh Yadav, the learned counsel for first informant.

Perused the record.

These applications for bail have been filed by applicants- Mukesh and Abhai Saxena, seeking their enlargement on bail in Case Crime No. 37 of 2023, under sections 376, 504, 506, 323 IPC and 3/4 POCSO Act, Police Station- Sahzad Nagar, District- Rampur, during the pendency of trial.

Record shows that in respect of an incident which is alleged to have occurred on 14.3.2023, a belated F.I.R. dated 18.3.2023 was lodged by first informant Smt. Sushila, mother of the prosecutrix and was registered as Case Crime No. 37 of 2023, under sections 376, 504, 506, 323 IPC and 3/4 POCSO Act, Police Station- Sahzad Nagar, District- Rampur. In the aforesaid F.I.R. two persons namely, Mukesh and Rajendra i.e. applicants herein have been nominated as named accused.

At the very outset, the learned A.G.A. contends that after

completion of statutory investigation of concerned case crime number, Investigating Officer submitted the charge sheet dated 18.5.2023, whereby named accused Mukesh has been charge sheeted under sections 376, 504, 506, 323 IPC and 3/4 POCSO Act, whereas Rajendra has been charge sheeted on 17.7.2023, under sections 376 IPC and Section 16/17 POCSO Act.

Record shows that after submissions of aforesaid charge sheet, cognizance was taken upon same by Court concerned. Consequently, the trial proceedings commenced. Applicants who are named and charge sheeted accused denied the charges so framed and pleaded innocence. Accordingly burden fell upon prosecution to establish the charges so framed. During course of trial, the prosecutrix deposed before Court below as P.W.1 who has supported the F.I.R.

According to learned A.G.A. the date of birth of the prosecutrix recorded in the High School certificate is 1.1.2009. The occurrence giving rise of present criminal proceedings has occurred on 14.3.2023. As such, the prosecutrix was aged about 14 years and two months on the date of occurrence. With reference to the judgement of Supreme Court in **X(Minor) Vs/State of Jharkhand and Anr., 2022 Live Law (SC) 194**, the learned A.G.A. contends that applicants do not deserve any indulgence by this Court.

When confronted with above, the learned counsel for applicants tried to establish that applicants are liable to be enlarged on bail on account of their false implication but could not overcome the objections raised by learned A.G.A.

Having heard the learned counsel for applicants, the learned A.G.A. for State, upon perusal of material brought on record, evidence, nature and gravity of offence as well as complicity of applicants, accusation made coupled with the fact that objections raised by the learned A.G.A. in opposition to the present application bail could not be dislodged by learned counsel for applicants, therefore irrespective of the varied submissions urged by learned counsel for applicants in support of the present application for bail, but without making any comment on the merits of the case, this Court does not find any good or sufficient ground to enlarge the applicants on bail.

In view of above, the applications fail and are liable to be rejected.

They are accordingly **rejected**.

Order Date :- 4.12.2023
Arshad