Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39076 of 2023

Applicant :- Ramdeen @ Bitaiya
Opposite Party :- State Of U.P. And 2 Others
Counsel for Applicant :- Shiv Narayan Pandey,Pramod Kumar Tripathi
Counsel for Opposite Party :- G.A.,Babita Upadhyay

Hon'ble Sameer Jain,J.

1. Sri Shiv Gopal Singh, Advocate submits that he has filed his power on behalf of the informant in the office of this Court but his name could not be shown from the side of the informant in the cause list.

2. Heard Sri Shiv Narayan Pandey, learned counsel for the applicant; Sri Shiv Gopal Singh, learned counsel for the informant and Sri Ravi Kant Kushwaha, learned AGA for the State-respondent.

3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 268 of 2022, under Sections 376, 506 IPC and 3/4 POCSO Act & Section 3(2)5 SC/ST Act, Police Station Girnwa, District Banda, during pendency of the trial in the court below.

4. FIR of the present case was lodged against the applicant and according to the FIR, informant aged about 17 years had gone alongwith the applicant in the field where applicant committed rape with her.

5. Learned counsel for the applicant submitted that the entire allegations made against the applicant are totally false and baseless and only due to village party bandi and election rivalry, he has been made accused in the present matter.

6. He further submitted that although in the FIR as well as in both the statements recorded under sections 161 and 164 Cr.P.C. victim made allegation of rape against the applicant but her version appears to be improbable and even doctor, during her medical examination did not find any injury on her person.

7. He further submitted that even as per school record, victim is more than 17 years old girl, therefore, at this stage, it cannot be said that victim is below 18 years old girl at the time of

incident.

8. He further submitted that applicant is having no criminal history to his credit and he is in jail in the present matter since 21.10.2022 i.e. for more than a year.

9. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that applicant is married man and he has first taken the victim to the field and thereafter made physical relationship with her and victim in the FIR as well as in both the statements recorded during investigation made allegation of rape against the applicant and therefore, applicant does not deserve bail.

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

11. Considering the fact that applicant is a married man and he has taken the victim to the field and committed rape with her and victim in her both the statements recorded during investigation and in the FIR made allegation of rape against the applicant and she is hardly 17 years old girl, in my view, applicant is not entitled to be released on bail.

12. Accordingly, the instant bail application stands ***rejected***.

13. However, considering the fact that applicant is in jail for more than a year, trial court is directed to conclude the trial of the case within ***eight months*** from the date of production of certified copy of this order strictly as per provision of section 35 POCSO Act without granting any unnecessary adjournment to either of the parties, if there is no legal impediment.

14. 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 :- 30.10.2023

Ankita

Digitally signed by :-
ANKITA SRIVASTAVA
High Court of Judicature at Allahabad