

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41147 of 2023

Applicant :- Nitin Kumar Yadav

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

Counsel for Applicant :- Ram Chandra Yadav

Counsel for Opposite Party :- G.A.,Bipin,Vibhav Srivastava

Hon'ble Sameer Jain,J.

1. Heard Sri Ram Chandra Yadav, learned counsel for the applicant; Sri Bipin Shukla, learned counsel for the informant and Sri Tanay Kumar, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 581 of 2022, under Sections 363, 366, 376, 506 IPC and 5/6 POCSO Act, Police Station Handiya, District Prayagraj, during pendency of the trial in the court below.
3. FIR of the present case was lodged against the applicant and others and according to the FIR, applicant enticed away the daughter of the informant aged about 17 years.
4. Learned counsel for the applicant submitted that the entire allegations made against the applicant are totally false and actually victim on her own had gone along with the applicant and she was consenting party and this fact is even reflected from her both the statements recorded under sections 161 and 164 Cr.P.C.
5. He further submitted that although from the statements of the victim recorded during investigation, it also reflects that she became pregnant with the applicant and applicant wanted to perform marriage with her but in the meantime, he was sent to jail and when he was in jail, marriage of the victim was performed by her parents with some other person and marriage card of the victim has been annexed along with the instant bail application.
6. He further submitted that although as per informant, victim was around 17 years old but as per school record of the victim, she was 17 years 8 months old and during investigation, her ossification test was not conducted and therefore, it cannot be said, at this

stage,
that victim was below 18 years old girl.

7. He further submitted that applicant is also hardly 19-20 years old and it was a case of love affair.

8. He further submitted that applicant is in jail in the present matter since 1.10.2022 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 victim was below 18 years old girl and applicant sexually exploited her and due to his sexual exploitation victim also became pregnant and under societal compulsion, her miscarriage was caused by her parents and thereafter her marriage was performed with some other person and therefore, considering the totality of the facts and circumstances of the case, applicant should not be released on bail.

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

11. From the perusal of the record, it appears that victim was about 18 years old and from her both the statements recorded under sections 161 and 164 Cr.P.C. her consent also reflects but it appears that with the applicant, victim become pregnant and according to the statement of the victim recorded under section 164 Cr.P.C. it appears that when applicant came to know about her pregnancy then she left her and thereafter anyhow her marriage was performed by her parents with some other boy.

12. Therefore, considering the facts and circumstances of the case, I am not inclined to release the applicant on bail.

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

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 :- 17.10.2023

Ankita