

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42414 of 2023

Applicant :- Hukumchandra Nishad

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

Counsel for Applicant :- Harsh Narayan Singh, Prashant Kumar Singh

Counsel for Opposite Party :- G.A., Abhilasha Singh

Hon'ble Sameer Jain, J.

1. As matter also pertains to the provisions of Section 376AB IPC, therefore, notices were issued to the informant of the case.
2. As per office report dated 30.10.2023 notice has been served to the informant of the case through his wife.
3. Even Sri Imran Khan, learned AGA, for the State, apprised the Court that on 18.9.2023 notice has been served to the informant of the case.
4. Despite service of notice, none appeared on behalf of the informant.
5. However, learned counsel appearing for the High Court Legal Services Committee and the learned AGA, for the State, are present.
6. Heard Sri Harsh Narayan Singh, learned counsel for the applicant, Sri Imran Khan, learned AGA, for the State and Ms. Abhilasha Singh, learned counsel for the High Court Legal Services Committee.
7. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.220 of 2023, under Section 376 A,B IPC and Section 5/6 POCSO Act, Police Station Baberu, District Banda during pendency of the trial.
8. FIR of the present case was lodged against the applicant and according to the FIR, applicant committed rape with the

daughter of the informant aged about 13 years.

9. Learned counsel for the applicant submits that on the basis of false allegation of rape applicant has been made accused in the present matter and actually informant has taken Rs.50,000/- from applicant and when applicant demanded back his money then instead of returning his money informant implicated him in the present matter.

10. He further submits that although victim in her both the statements recorded under Sections 161 and 164 Cr.P.C. made allegation of rape against the applicant but as she was hardly 13 years old girl, therefore, under the pressure of her father, i.e., informant, she stated against the applicant.

11. He further submits that although according to the FIR the condition of victim was serious and she was referred to Banda but the medical report did not suggest that she sustained such serious injuries.

12. He further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 14.5.2023.

13. Per contra, learned AGA as well as learned counsel for the High Court Legal Services Committee opposed the prayer for bail and submitted that victim is hardly 13 years old girl and she in her both the statements recorded under Sections 161 and 164 Cr.P.C.stated that applicant committed rape with her.

14. Learned counsel for the High Court Legal Services Committee further pointed out that from the medical report of the victim it appears that her hymn was found torn and bleeding was also present and victim was referred to Banda too and, therefore, no false facts have been narrated in the FIR.

15. I have heard learned counsel for the parties and perused the

record of the case.

16. Considering the fact that victim is hardly 13 years old girl and she made allegation of rape against the applicant and her injury report also suggests the sexual assault and applicant failed to bring any cogent reasons for his false implication, in my view, applicant is not entitled to be released on bail.

17. Accordingly, the instant bail application is rejected.

18. 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 :- 31.10.2023

SKM