

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49168 of 2022

Applicant :- Ram Barana Alias Ladley

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

Counsel for Applicant :- Raj Kumar Mishra, Kamlesh Kumar Tripathi

Counsel for Opposite Party :- G.A., Kanchan Chaudhary

Hon'ble Sameer Jain, J.

1. Sri Suresh Bahadur Singh, learned AGA for the State apprised the Court that notice has been served upon the informant on 28.10.2022. Despite service of notice, none present on behalf of the informant. However, name of Ms. Kanchan Chaudhary, Advocate has been shown in the cause list on behalf of High Court Legal Services Committee but she is also not present.

2. Heard Sri Kamlesh Kumar Tripathi, learned counsel for the applicant and Sri Suresh Bahadur Singh, learned AGA for the State.

3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 95 of 2022, under Sections 363, 366, 376(3) IPC and Section 3/4 POCSO Act, Police Station Ushrahar, District Etawah during pendency of the trial.

4. FIR of the present case was lodged against applicant and according to the FIR applicant enticed away the daughter of the informant aged about 13 years. It is further mentioned in the FIR that victim has also taken jewelries along with Rs. 7,000/- along with her.

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

6. He further submits that victim in her statement recorded under

Section 161 Cr.P.C. did not state that applicant committed rape with her but when her statement under Section 164 Cr.P.C. was recorded then she stated that applicant committed rape with her and this fact clearly suggests that victim is a tutored witness and she under the pressure of her parents started making allegation of rape against the applicant.

7. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 11.05.2022 i.e. for almost one and half years.

8. Per contra, learned AGA opposed the prayer for bail and submits that victim is hardly 14 years old girl, therefore, her consent is immaterial and victim in her statement recorded under Section 164 Cr.P.C. categorically stated that applicant made physical relationship with her, therefore, considering the age of the victim, applicant should not be released on bail.

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

10. Considering the fact that applicant is major and adult man aged about 25 years and on the other hand victim appears to be 14 years old child and she in her statement recorded under Section 164 Cr.P.C. stated that applicant made physical relationship with her, in my view, applicant is not entitled to be released on bail.

11. Accordingly, the instant bail application is rejected.

12. 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.

13. However, considering the fact that applicant is in jail for almost one and half years, trial court is directed to conclude the trial of the case within a period of nine months from the date of production of certified copy of this order strictly as per provision of Section 35 POCSO Act and Section 309 Cr.P.C., if there is no legal impediment.

Order Date :- 29.11.2023

AK Pandey