

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41965 of 2023

Applicant :- Azahar Khan @ Aryan

Opposite Party :- State of U.P.

Counsel for Applicant :- Shashi Ranjan Srivastava, Prashant Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma, J.

1. Heard Sri Shashi Ranjan Srivastava, learned counsel for the applicant, and learned A.G.A. for the State and perused the records.

2. The instant bail application, has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 0133 of 2023, under Sections 363, 366 I.P.C, Police Station Konch, District Jalaun, during pendency of the trial.

3. Learned counsel for the applicant submits that in this case POCSO Act has not been added because the victim would be above 18 years of age. He further submits that there is variation in the statement of victim under sections 161 and 164 Cr.P.C. In the statement under section 161 Cr.P.C. just of the recovery of the victim, the victim has stated that she used to talk with the applicant-accused on mobile. He came to her with his friend Fahim Khan and when she was going together sitting in car his family members were informed and they reached on the spot and caught hold of them. Contrary to the statement under section 161 Cr.P.C. the victim has stated in her statement under section 164 Cr.P.C. that the applicant forcefully put her into the vehicle and started to go towards Gwalior. When she was recovered by his brother on during the journey she has also stated that no bad act has been committed by the applicant with her. There is no criminal antecedents to the credit of the applicant. The applicant is languishing in jail since 15.06.2023, in case he is enlarged on bail, he will not misuse the said liberty, and there is no likelihood of abscondence or tampering with evidence.

4. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

5. Having regard to the submissions made but without commenting on merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant, **Azahar Khan @ Aryan** involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not temper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness;
- iii. the applicant shall appear on each and every date fixed by the trial court.

7. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 2.11.2023

Vikram