

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50834 of 2022

Applicant :- Raju

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

Counsel for Applicant :- Ganesh Shankar Patel

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal,J.

1. Heard Sri Ganesh Shankar Patel, learned counsel for the applicant, Sri Ajay Singh, learned A.G.A. for the State and perused the records.

2. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant- Raju, seeking enlargement on bail during trial in connection with Case Crime No. 470 of 2017, under Sections 363/34, 366/34, 376D I.P.C. and Section 3/4 POCSO Act, registered at Police Station Ujhani, District Badaun.

3. The First Information Report of the present case was lodged by Rameshwar against applicant and four other persons alleging therein that daughter of the first informant aged about 16 years was lured and enticed away by the accused persons regarding which a case bearing Criminal Case No. 55 of 2016 under Sections 363, 366, 376 IPC and POCSO Act is going on before the trial court in which the applicant Raju was arrested and then was granted bail and was released from jail on 28.8.2017. He then again has enticed away his daughter.

4. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that the victim went with the applicant out of her own free will and there is nothing on record to show that there was any force or

pressure on the victim. It is argued that in the previous case, the applicant was granted bail vide order dated 5.9.2016 passed in Criminal Misc. Bail Application No. 29130 of 2016 (Raju Vs. State of U.P.). The copy of the order has been placed before the Court which is Annexure-8 to the affidavit. It is argued that the implication of the applicant in the present case is false and without credibility. The victim has given contradictory statements during investigation. The applicant is in jail since 2.8.2022.

5. *Per contra*, learned counsel for the State opposed the prayer for bail and argued that the trial in the present matter in which the victim was examined as P.W.-2. The said statement is as Annexure-1 to the supplementary affidavit dated 8.11.2023 in which she has supported the prosecution case. It is argued that this is the second incident of the applicant with the same event. It is argued that the present case is of the year 2017 and the applicant was arrested in the year 2022. There is nothing on record to show as to where the applicant was during the said period except for the period of investigation wherein his arrest was stayed by division bench of this Court vide order dated 25.10.2017 passed in Criminal Misc. Bail Application No. 2690 of 2017 (Smt. Vineeta and 5 others Vs. State of U.P. and 3 others). It is argued that bail application be rejected.

6. After having heard learned counsel for the parties and perusing the records, it is evident that the applicant is involved in a similar occurrence with the same victim for the second time. The victim during trial while being examined as P.W.-2 has supported the prosecution case. The applicant was granted stay of arrest during pendency of investigation vide order dated 25.10.2017 but subsequently, he continued to abscond till 2022. There is no explanation rendered regarding his whereabouts for

about five years.

7. No ground of bail is made out.

8. The bail application is, accordingly, rejected.

Order Date :- 30.11.2023

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(Samit Gopal, J.)