

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41707 of 2023

Applicant :- Manjeet Yadav

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

Counsel for Applicant :- Pramod Kumar Srivastava,Manoj Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. As matter also pertains to the provisions of SC/ST Act, therefore, notices were issued to the informant of the case.
2. As per office report dated 31.10.2023 notice has been served personally to the informant.
3. Even Dr. S.B.Maurya, learned AGA-I, for the State, apprised the Court that notice has been served to the informant of the case on 27.9.2023.
4. Despite service of notice, none appeared on behalf of the informant.
5. Heard Sri Pramod Kumar Srivastava, learned counsel for the applicant and Dr.S.B.Maurya, learned AGA-I, for the State.
6. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.412 of 2023, under Sections 363, 366A and 376 IPC, Section 3/4 POCSO Act and Section 3(2)(5) SC/ST (P.A.) Act, Police Station Karwi Kotwali Nagar, District Chitraoot during pendency of the trial.
7. FIR of the present case was lodged against the applicant and three others and according to the FIR, applicant with the help of other co-accused persons enticed away the niece of the informant

aged about 11 years.

8. Learned counsel for the applicant submits that entire allegation made against the applicant is totally false and baseless and from the statements of the victim recorded under Sections 161 and 164 Cr.P.C. it appears that she herself had gone along with applicant.

9. He further submits that although on query victim in her statement under Section 161 Cr.P.C. stated that about 2-3 months before physical relationship was developed between her and applicant but when her statement under Section 164 Cr.P.C. was recorded then although she stated that she herself had gone along with applicant but she also stated that no physical relationship ever developed between her and applicant.

10. He further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 15.7.2023.

11. Per contra, learned AGA opposed the prayer for bail and submits that as per school record victim is hardly 13-1/2 years old but he could not dispute the fact that during investigation her ossification test was not conducted and she in her statement under Section 161 Cr.P.C. did not state that applicant ever made any physical relationship with her.

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

13. However, from the school record of the victim it appears that she was around 13-1/2 years old at the time of incident and in her statement recorded under Section 161 Cr.P.C. she also stated that physical relationship was developed between her and applicant

but subsequently when her statement under Section 164 Cr.P.C. was recorded before the Magistrate then she although stated that she herself had gone with applicant but also stated, no physical relationship ever developed between both of them.

14. Further, applicant is not having any previous criminal history and in the present matter he is in jail since 15.7.2023.

15. Therefore, considering the statement of the victim recorded under Section 164 Cr.P.C. and facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

16. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

17. Let the applicant-**Manjeet Yadav** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

18. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this

Court for cancellation of the bail of the applicant.

19. 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 :- 1.11.2023

SKM