

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42719 of 2023

Applicant :- Vijay Rajpoot

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

Counsel for Applicant :- Akhil Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Sri Imran Khan learned AGA submitted that notice has been served to the informant on 30.9.2023. Despite service of notice none appeared on behalf of the informant.
2. Heard Sri Akhil Kumar Shukla, learned counsel for the applicant and Sri Imran Khan, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 234 of 2023, under Sections 376, 506 IPC and 3/4 POCSO Act, Police Station Maudarwaja, District Farrukhabad, during pendency of the trial in the court below.
4. FIR of the present case was lodged against the applicant and according to the FIR informant is aged about 17 years and applicant sexually exploited her and also prepared her obscene videographs and subsequently, he refused to perform marriage with her.
5. Learned counsel for the applicant submitted that the entire allegations made against the applicant are totally false and baseless and even from the statements of the victim recorded under sections 161 and 164 Cr.P.C. and from the contents of the FIR, it appears that victim wanted to perform marriage with the applicant but when her marriage could not be solemnized with the applicant then she lodged FIR of the present case.
6. He further submitted that although as per the victim, she is around 17 years old but actually she is more than 18 years old and it appears her wrong date of birth has been mentioned in her school record.

7. He further submitted that during investigation ossification test of the victim was not conducted.

8. He further submitted that actually victim and applicant were having friendship but unfortunately their marriage could not be solemnized and thereafter FIR of the present case was lodged and applicant never sexually exploited the victim.

9. He further submitted that applicant is having no criminal history and he is in jail in the present matter since 6.7.2023.

10. Per contra, learned AGA opposed the prayer for bail and submitted that as per high school certificate of the victim she was around 17 years old but he fairly conceded that during investigation, her ossification test could not be conducted.

11. However, he further submitted that there is allegation of sexual exploitation against the applicant in the FIR as well as in both the statements of the victim recorded under sections 161 and 164 Cr.P.C.

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

13. From the perusal of the record, it appears that victim herself lodged FIR of the present case and in the FIR as well as in both the statements recorded under sections 161 and 164 Cr.P.C. she made allegation of sexual exploitation against the applicant but story narrated by her does not appear to be convincing.

14. Further even from the record, at this stage, it could not be ruled out that she was not a consenting party.

15. Further, although as per school record, age of the victim was around 17 years but during investigation her ossification test was not conducted and therefore, precisely at this stage, it cannot be said that victim was even below 18 years of age.

16. Therefore, considering the facts and circumstances of the case, discussed above, in my view, applicant is entitled to be released on bail.

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

18. Let the applicant-**Vijay Rajpoot**, 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.

19. 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.

20. 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 :- 18.10.2023

Ankita