

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44083 of 2023

Applicant :- Deepak Singh

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Gopal Vishwakarma

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Power alongwith short counter affidavit has been filed today on behalf of Sri V.N. Vishwakarma, which is taken on record.
2. Heard Sri Shiv Kumar Vishwakarma, Advocate, holding brief of Sri Gopal Vishwakarma, learned counsel for the applicant, Sri Jeet Tripathi, Advocate, holding brief of Sri V.N. Vishwakarma, learned counsel for the informant and Sri Ajeet Kumar Madhesiya, learned brief holder for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 138 of 2023, under Sections 376(2)(n), 313, 306 and 506 IPC, Police Station- Kakadeo, District- Kanpur Nagar, during pendency of the trial in the court below.
4. FIR of the present case was lodged against applicant on 01.08.2023 and according to the FIR, applicant was sexually exploiting the informant for several years under the false promise of marriage and he also caused her miscarriage and thereafter he refused to perform marriage with her.
5. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and admittedly victim i.e. informant of the case is a major girl and her consent is quite apparent from the FIR and from her both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. He further submitted that some dispute arose between applicant and victim and thereafter FIR of the present case was lodged. He further submitted that now the dispute arose between both the sides has been resolved and in this regard victim filed an affidavit before the Additional Sessions Judge, Court No. 18, Kanpur Nagar, which has been annexed as Annexure No. 2 to the affidavit.
6. He further submitted that applicant is not having any criminal history and he is in jail since 12.08.2023.

7. Per contra, learned AGA although, opposed the prayer for bail but could not dispute the fact that victim is major girl and her consent is quite apparent from the record.

8. Learned counsel for the informant also conceded the fact that the dispute arose between applicant and victim has been resolved now and victim is not having any objection, if the applicant be enlarged on bail.

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

10. Considering the fact that victim is major girl and her consent is quite apparent from the record and now dispute arose between both the parties has been resolved and even victim is not having any objection, if the applicant be enlarged on bail, in my view, applicant is entitled to be released on bail.

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

12. Let the applicant- **Deepak Singh** 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.

13. 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.

14.. 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 :- 17.10.2023 / KK Patel