

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44004 of 2023

Applicant :- Sintu Rao

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

Counsel for Applicant :- Arvind Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Sri Imran Khan, learned AGA, for the State, apprised the Court that notice has been served to the informant of the case on 26.10.2023.
2. Even as per office report dated 22.11.2023 notice has been served to the informant through his heirs.
3. Despite service of notice, none appeared on behalf of the informant.
4. Heard Sri Arvind Yadav, learned counsel for the applicant and Sri Imran Khan, learned AGA, for the State.
5. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in S.T.No. 124 of 2021 vide Case Crime No.743 of 2020, under Section 376 AB IPC and Section 5/6 POCSO Act, Police Station Gagaha, District Gorakhpur during pendency of the trial.
6. FIR of the present case was lodged against the applicant and according to the FIR, on 15.11.2020 at about 2.00 PM in the absence of the informant, applicant after committing rape when running from the hut of the informant then on hearing the shriek of the daughter informant reached at her hut. It is further mentioned in the FIR that informant when entered in her hut then found that blood was oozing from the private part of her daughter aged about 7 years.

7. Learned counsel for the applicant submits that on the instigation of her mother victim during investigation in her statements recorded under Sections 161 and 164 Cr.P.C. made allegation of rape against the applicant but in both the statements of the victim and in the version of the FIR there are material contradictions with regard to alleged case of rape.

8. He further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 17.11.2020, i.e., for the last more than three years.

9. He further submits that till date trial of the case could not be concluded and informant had already examined by the trial court and therefore, there is no chance of any tampering with the prosecution evidence by the applicant and therefore, considering the long incarceration of applicant of more than three years, he may be enlarged on bail.

10. Per contra, learned AGA opposed the prayer for bail and submits that applicant committed rape and sodomy with a minor child aged about 7 years and her medical report also supports the version of the victim.

11. Learned AGA further submits that in the medical report Doctor noted the vaginal bleeding and therefore, in such matter merely on the basis of incarceration of more than three years, accused should not be released on bail .

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

13. However, from the record it appears that applicant is in jail for the last more than three years but he is an adult man , who alleged to have committed rape and sodomy upon a child aged about 7

years.

14. Further, victim in her both the statements recorded under Sections 161 and 164 Cr.P.C. made allegation of rape and sodomy against the applicant.

15. Further, from the perusal of the medical report of the victim it appears that Doctor noted vaginal bleeding and, therefore, medical report of the victim corroborates the allegation levelled against the applicant.

16. Further, applicant could not bring any good reason for his false implication.

17. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is not entitled to be released on bail.

18. Accordingly, the instant bail application is **rejected**.

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.

20. However, considering the fact that applicant is in jail for the last more than three years, trial court is directed to conclude the trial within a period of eight months from the date of production of certified copy of this order in accordance with law, strictly as per provisions of Section 309 Cr.P.C., and Section 35 POCSO Act, on day-to-day basis, without granting unnecessary adjournment to either of the parties, if there is no other legal impediment.

Order Date :- 23.11.2023

SKM