

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44037 of 2023

Applicant :- Iqbal Ansari

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

Counsel for Applicant :- Yakub Ali

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 17.10.2023.
2. Despite service of notice, none appeared on behalf of the informant.
3. Heard Sri M.J.Akhtar, learned counsel for the applicant and Sri Imran Khan, learned AGA, for the State.
4. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.758 of 2023, under Section 376 IPC and Section 5/6 POCSO Act, Police Station Kasya, District Kushi Nagar during pendency of the trial.
5. FIR of the present case was lodged against the applicant on 30.8.2023 under Section 376 IPC and Section 5/6 POCSO Act and according to the FIR, informant is aged about 17 years and for the last two years applicant was sexually exploiting her under the false promise of marriage and thereafter he had gone for his livelihood outside but subsequently he refused to perform marriage with her.
6. Learned counsel for the applicant submits that entire allegation of sexual exploitation made against the applicant is totally false and baseless and actually victim is a major girl

aged about 18 years and this fact is evident from CMO report.

7. He further submits that actually applicant and victim were having good friendship and both wanted to perform marriage with each other but in the meantime applicant had gone to Bombay for his livelihood and when he returned back then some dispute arose between both applicant and victim and their marriage could not be solemnized and thereafter on the basis of false allegation FIR of the present case was lodged.

8. He further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 31.8.2023.

9. Per contra, learned AGA opposed the prayer for bail and submits that from the school record it appears that victim was below 18 years old at the time of alleged sexual exploitation but he could not dispute the fact that according to CMO report she was about 18 years old.

10. Learned AGA further could not dispute the fact that FIR of the present case was lodged after about two years.

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

12. However, from the school record of the victim it appears that she was about 17 years old but according to CMO report, her age was around 18 years.

13. Further, from the record it reflects that FIR of the present case was lodged after two years and it appears that applicant and victim both were in consensual relationship.

14. The defence taken by applicant cannot be completely brushed aside at this stage.

15. Further, applicant is not having any previous criminal history and he is in jail in the present matter since 31.8.2023.

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-**Iqbal Ansari** 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 :- 31.10.2023
SKM