

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44321 of 2023

Applicant :- Nanhulal Maurya

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

Counsel for Applicant :- Vinay Kumar Singh, Arurit Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Sri Kunwar Tejendra Bahadur, learned AGA for the State apprised the Court that on 28.10.2023 notice has been served to the informant of the case. Despite service of notice, none appeared on behalf of the informant.
2. Heard Sri Vinay Kumar Singh, learned counsel for the applicant and Sri Kunwar Tejendra Bahadur, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 71 of 2022, under Sections 376, 323 IPC & 5/6 POCSO, Police Station- Sahjanawa, District- Gorakhpur, during pendency of the trial in the court below.
4. FIR of the present case was lodged against applicant and according to the FIR, on 26.03.2022 in the night when daughter of the informant aged about 12 years was in the lane, applicant forcibly took her in his old house and committed rape with her.
5. Learned counsel for the applicant submitted that entire story narrated in the FIR appears to be totally false and due to enmity applicant has been made accused in the present matter. He further submitted that although, victim in her both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. made allegation of rape against the applicant but even story narrated by the victim does not appear to be convincing.
6. He further submitted that although, victim is hardly 12-13 years' old but at the time of medical, doctor did not find any injury on her body. He further submitted that actually applicant is the neighbour of the informant and some dispute with regard to drain is pending between both of them and only due to this reason, applicant has

been made accused in the present matter.

7. He further submitted that applicant is in jail since 29.03.2022 i.e. for more than one and half years.

8. Per contra, learned AGA opposed the prayer for bail and submitted that applicant committed rape with the daughter of the informant aged about 12 years and victim in her both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. made allegation of rape against him and applicant is also having criminal history of two cases. He further submitted that applicant could not bring any good reason for his false implication.

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

10. Considering the fact that victim is hardly 12-13 years' old girl and she in her both the statements recorded during investigation made allegation of rape against the applicant and applicant failed to bring any good reason for his false implication, in my view, applicant is not entitled to be released on bail.

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

12. 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 :- 9.11.2023

KK Patel