

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44275 of 2023

Applicant :- Rais

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

Counsel for Applicant :- Suvrat Dwivedi, Saksham Srivastava

Counsel for Opposite Party :- G.A., Abhilasha Singh

Hon'ble Sameer Jain, J.

1. Sri Jhamman Ram, learned AGA-I for the State apprised the Court that on 10.10.2023 notice has been served upon the informant. Despite service of notice, none present on behalf of the informant.

2. Heard Sri Saksham Srivastava, learned counsel for the applicant, Smt. Abhilasha Singh, learned counsel appearing on behalf of High Court Legal Services Committee and Sri Jhamman Ram, learned AGA-I for the State.

3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 25 of 2023, under Sections 376 IPC and Section 5m/6 POCSO Act, Police Station Railbazar, District Kanpur Nagar during pendency of the trial.

4. FIR of the present case was lodged against the applicant and according to the FIR applicant committed unnatural sex with the daughter of the informant aged about eight years.

5. Learned counsel for the applicant submitted that applicant is 60 years old senior citizen and on the basis of allegation of unnatural sexual offence, he has been made accused in the present matter.

6. He further submits that actually applicant is labour on the construction side and some dispute arose between informant and applicant with regard to payment of construction of wall and only due to this reason, he has been made accused in the present matter. He further submits that victim is aged about eight years, therefore, she under the pressure of her mother i.e. informant of the case stated against the applicant. He further submits that applicant is not having any criminal history and in the present matter he is in jail

since 26.02.2023.

7. Per contra, learned AGA as well as learned counsel appearing on behalf of High Court Legal Services Committee opposed the prayer for bail and submitted that victim is hardly eight years old and from her statement recorded during investigation it reveals that she stated that applicant forced her to take male organ of the applicant in her mouth, therefore, considering the nature of allegation, age of the victim, he should not be released on bail.

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

9. Considering the fact that victim is hardly eight years old and according to her she had to take the private part of the applicant in her mouth under the force and threat of 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.

10. Accordingly, the instant bail application is rejected.

11. 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 :- 1.11.2023

AK Pandey