

**Court No. - 75**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 44786 of 2023

**Applicant :-** Bhata Guru

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

**Counsel for Applicant :-** Shashank Tripathi

**Counsel for Opposite Party :-** G.A., Babita Upadhyay

**Hon'ble Umesh Chandra Sharma, J.**

1. Heard Sri Irshad Ahmed holding brief of Sri Shashank Tripathi, learned counsel for the applicant, learned AGA for the State, Smt. Babita Upadhyay, learned counsel for the High Court Legal Services Committee and perused the record. None appeared on behalf of the informant even he has been sufficiently served.

2. By means of this bail application, applicant seeks bail in Case Crime No.81 of 2023, under Sections 354 IPC and Section 7/8 POCSO Act, Police Station Harbansh Mohal, District Kanpur Nagar, during the pendency of trial.

3. The charge against the applicant is that he touched a seven-year-old girl, daughter of the informant, with bad intention.

4. Learned counsel for the applicant submitted that the applicant has been falsely implicated in the present case due to ulterior motive. He has not committed any offence as alleged by the prosecution.

5. Leaned AGA has opposed the prayer for bail and pointed out the statement of the victim in which she has stated that accused had touched her private part.

6. Contrary to that learned counsel for the applicant submits that one day before the alleged incident an altercation has taken place between both the parties about which proceedings were also launched by the police on the indication of the informant under Sections 107 and 116 CrPC. In this regard when the applicant visited the office of the Assistant Commissioner of Police, Sisamau, Kanpur Nagar he was arrested under the conspiracy of the informant with the police. There is no previous criminal history against the applicant. There is no likelihood of his abscondence or tampering with the evidence. The applicant is languishing in jail since 28.08.2023. In case the

applicant is released on bail, he will not misuse the said liberty.

7. Considering the facts, circumstances and the submissions made but without commenting on the merits of the case, this Court is of opinion that the applicant has made out a fit case for bail. Accordingly, the bail application is allowed.

8. Let the applicant - **Bhata Guru**, involved in the aforesaid case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that he:

(i) shall appear on the date fixed by the trial court;

(ii) shall not tamper with the prosecution evidence;

(iii) shall not pressurize the prosecution witnesses.

9. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

**Order Date :- 7.12.2023**

Shahroz