

Court No. - 76

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44781 of 2023

Applicant :- Sunil Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Vikrant Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vikram D. Chauhan,J.

1. Learned A.G.A. for the State submits that instructions have been received and has no objection in case the bail application is heard on merits.

2. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

3. It is submitted by learned counsel for the applicant that as per allegations made in the first information report, daughter of the informant was found missing, thereafter, a phone call came to the informant that his daughter is with the applicant. Subsequently, another phone call came that the daughter has married to the co-accused-Babloo. Thereafter, when the parents of the victim went to recover the girl, they found that the applicant along with co-accused were trying to sell the victim.

4. Learned counsel for the applicant submits that statement of the victim has been recorded under Section 164 Cr.P.C., where, she has specifically stated that applicant and co-accused-Babloo have asked the victim to come along with them and have administered intoxicated material and they were trying to sell her, thereafter, she got recovered. She has also been married to the co-accused-Babloo. The victim is aged about 16 years.

5. Learned counsel for the applicant has also dispute the age of the victim and stated that the documents supporting the age of the victim do not substantiate that the victim is minor. Learned counsel for the applicant submits that the applicant has been falsely implicated in the case as there is a family dispute between the parties. Applicant has no previous criminal history. Applicant is languishing in jail since 24.06.2023.

6. Learned A.G.A. for the State opposed the prayer for bail and submits that the victim in her statement has specifically stated that she was abducted by the applicant along with co-accused.

7. In the present case, it is to be seen that the victim was abducted and subsequently

recovered. In her statement recorded under Section 164 Cr.P.C., she stated that she was abducted by the applicant and the co-accused and they were trying to sell the victim. Subsequently, the co-accused-Babloo married the victim.

8. In respect of the false implication, learned counsel for the applicant submits that due to the family dispute, applicant has been falsely implicated. The general and vague allegations with regard to the false implication has been made in the bail application. Particulars with regard to family dispute are missing. Victim has supported the prosecution story in her statement under Section 164 Cr.P.C.

9. A plea of false implication has been raised by the applicant. A plea of false implication is required to be specific and factual foundation of the same is required to be laid down by accused in the pleadings. In **Ruli Ram Vs. State of Haryana, (2002) 7 SCC 691**, it has been observed by the Supreme Court that when a plea of false implication is advanced by the accused, foundation for the same has to be established. Further, in **Ram Udgar Singh Vs. State of Bihar, (2004) 10 SCC 443**, the Apex Court has held that foundation has to be laid if a plea of false implication is made. Vague allegations with regard to plea of false implication raised by accused is not permissible under law. The plea of false implication cannot be on the basis of conjectures. In **Brahm Swaroop Vs. State of U.P., (2011) 6 SCC 288**, Supreme Court has observed that a party has to lay down a factual foundation and prove by leading impeccable evidence in respect of its false implication. In the present case vague and general allegations have been made with regard to plea of false implication. The foundational fact and material particulars are absent. Such plea of false implication is not tenable.

10. Considering the facts and circumstances of the case, nature of offence, evidence, complicity of accused, submissions of learned counsel for the parties and without expressing any opinion on the merits of the case, the Court do not find it a fit case for bail.

11. Accordingly, the bail application of applicant- Ishaq in Case Crime No. 319 of 2023, under Sections 363, 372 & 506 IPC, Police Station Ramgarh Tal, District Gorakhpur, is rejected.

Order Date :- 1.11.2023

S.Prakash