

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45297 of 2023

Applicant :- Deepak @ Sunny

Opposite Party :- State of U.P.

Counsel for Applicant :- Pragya Pandey, Mehul Khare

Counsel for Opposite Party :- G.A., Ajay Kumar Pandey

Hon'ble Sameer Jain, J.

1. Sri Ajay Kumar Pandey, Advocate filed his power on behalf of the informant which is taken on record.
2. Heard Sri Mehul Khare, learned counsel for the applicant; Sri Ajay Kumar Pandey, learned counsel for the informant and Sri Pradeep Kumar, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 0173 of 2023, under Sections 354A, 376 and 506 IPC, Police Station Ramala, District Baghpat, during pendency of the trial in the court below.
4. FIR of the present case was lodged against the applicant on 30.6.2023 and according to the FIR, applicant is the neighbour of the informant and about two years before, he prepared the photograph of the informant while she was taking bath and thereafter he started blackmailing her and for last two years he was sexually exploiting her under the threat to post her video on social media.
5. It is further mentioned in the FIR that applicant also extracted jewelry and Rs. One lakh from the informant and when applicant refused to make sexual relationship with her then he sent her video to her in-laws.
6. Learned counsel for the applicant submitted that applicant is innocent and totally on the basis of false allegation of sexual exploitation, he has been made accused in the present matter.
7. He further submitted that admittedly FIR of the present case was lodged after two years and it is hard to believe that on the basis of mobile video of the victim, applicant was committing rape with her for last two years.

8. He further submitted that actually victim who is a major and married lady was having relationships with the applicant but subsequently some dispute arose between both of them and subsequently, after two years, she lodged FIR of the present case.

9. He further submitted that although as per allegation applicant sent the obscene videos of the victim to her in-laws but no such videos could be recovered and during investigation, victim herself provided 12 photographs to the Investigating Officer. Further submitted that there is no evidence that applicant prepared these photographs and admittedly these photographs were herself provided to the I.O. by the victim.

10. He further submitted that applicant is having no criminal history and he is in jail in the present matter since 26.8.2023.

11. Per contra, learned AGA and learned counsel for the informant opposed the prayer for bail and submitted that applicant sexually exploited the victim under the threat to viral her obscene videos which he prepared at the time when she was taking bath but could not dispute the fact that victim is major and married lady and FIR of the present case was lodged after two years and there is no evidence on record that either applicant prepared the alleged obscene video of the victim or sent the same to her in-laws as alleged by the victim. They also could not dispute the fact that the alleged photographs were herself provided by the victim to the I.O. during investigation.

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

13. Although as per allegation, applicant for last two years was sexually exploiting the victim under the threat that he will viral her obscene videos which he prepared about two years before when she was taking bath but FIR of the present matter was lodged after two years and informant earlier did not make any complaint.

14. Further, allegation against the applicant is that he also sent these videos/photographs to in-laws of the victim but during investigation, no such evidence could be collected by the Investigating Officer in this regard. However, from the record, it reflects that 12 photographs of the victim were procured by the Investigating Officer during investigation and one of them was of her when she was taking bath but from the record, it further reflects that all these photographs of the victim were provided to the I.O. by the victim herself.

15. Further, informant is major and married lady and from the entire record, it cannot be said that she was not the consenting party and it is a specific case of the applicant that applicant and victim were in relationship.

16. Further applicant is not having any criminal history and he is in jail in the present case since 26.8.2023.

17. Therefore, considering the facts and circumstances of the case, discussed above, in my view, applicant is entitled to be released on bail.

18. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

19. Let the applicant-**Deepak @ Sunny**, 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.

20. 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.

21. 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 :- 27.10.2023

Ankita