

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45404 of 2023

Applicant :- Alok Sengar

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

Counsel for Applicant :- Sudhanshu Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Sri Imran Khan, learned AGA for the State apprised the Court that on 20.10.2023 notice has been served upon the victim of the case. Even as per office report dated 22.11.2023 notice has been served personally upon opposite party no.2. Despite service of notice, none present on behalf of informant.

2. Heard Sri Sudhanshu Pratap Singh, learned counsel for the applicant and Sri Imran Khan, learned AGA for the State.

3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 236 of 2023, under Sections 363, 366, 376D IPC, Section 5/6 POCSO Act and Section 3(2)(v) SC/ST Act, Police Station Ajeetmal, District Auraiya during pendency of the trial.

4. FIR of the present case was lodged against two persons (non applicant) and 3-4 unknown persons and according to the FIR on 02.05.2023 nominated accused persons along with their unknown associates enticed away the daughter of the informant aged about 15 years. It is further mentioned in the FIR that daughter of the informant has also taken Rs. 3 lakhs, some jewelries and silver coins from her house.

5. Learned counsel for the applicant submitted that applicant was not named in the FIR but when the statement of the victim was recorded under Section 161 Cr.P.C. then she disclosed the name of applicant. He further submits that there is no allegation of rape against the applicant and only allegation against the applicant is that he along with co-accused Monu and other co-accused persons administered some intoxicated substance in the cold drink and thereafter victim lost her conscious. He further submits that

applicant is not having any criminal history and in the present matter he is in jail since 19.09.2023.

6. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that there is no allegation of rape against the applicant.

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

8. Considering the fact that there is no allegation of rape against the applicant and allegation of rape is only against co-accused Monu, in my view, applicant is entitled to be released on bail.

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

10. Let the applicant - **Alok Sengar** 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.

11. 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.

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 :- 23.11.2023

AK Pandey