

**Court No. - 70**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 52309 of 2023

**Applicant :-** Mohit Thakur

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

**Counsel for Applicant :-** Deepak Kumar Verma, Akansha Verma

**Counsel for Opposite Party :-** G.A.

**Hon'ble Sameer Jain, J.**

1. Shri Jhamman Lal, learned A.G.A. for the State-respondent apprise the Court that notice has been served to the informant on 20.10.2023. Despite service of notice, none appeared on behalf of the informant to oppose this application for bail.

2. Heard Shri S. R. Verma, Advocate holding brief of Shri Deepak Kumar Verma, learned counsel for the applicant and Shri Jhamman Lal, learned A.G.A. for the State-respondent.

3. The instant application has been filed seeking release of the applicant on bail in Case Crime No.52 of 2023, under Sections 376-D(A), 506 IPC & Sections 5(g)/6 POCSO Act, Police Station Sirsa Kalar, District Jalaun, during pendency of the trial in the court below.

4. FIR of the present case was lodged on 20.03.2023 against applicant and two others and according to the FIR, informant, who was aged about fifteen and a half years, was having friendship with the applicant for last two years and number of occasions applicant made physical relationship with her and on 18.03.2023 applicant again made physical relationship with her and when applicant left her thereafter two other co-accused persons also

committed rape upon her.

5. Learned counsel for the applicant submits that entire allegations made against applicant are totally false and however, victim claimed herself to be a minor girl aged about fifteen and a half years but in fact she is a major and during investigation intentionally her ossification test was not conducted and appearance wise she looked like a major girl.

6. He further submits that even as per the school record, she was around sixteen years old and therefore, she has already attained puberty.

7. He further submits that story narrated by the victim in the FIR as well as in her both the statements recorded under Sections 161 and 164 Cr.P.C. appears to be quite unconvincing.

8. He further submits that actually victim and applicant both were having friendship but thereafter some dispute arose between them and after that FIR of the present case was lodged.

9. He further submits that it is a case of love affair and applicant is not having any criminal history and he is in jail in the present matter since 22.03.2023.

10. Per contra, learned A.G.A. opposed the prayer for bail and submits that even as per school record victim is aged about sixteen years and she in her both the statements recorded under Sections 161 and 164 Cr.P.C. stated that applicant committed rape upon her.

11. He further submits that as per medical report of the victim, she was also found pregnant and therefore, considering the nature of allegation and medical report of the victim, applicant should not be

released on bail.

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

13. From the record, it reflects that victim is about fifteen and a half years old and she in the FIR as well as in her both the statements recorded under Sections 161 and 164 Cr.P.C. made allegation of rape against the applicant and two others and during investigation learned A.G.A. produced the case diary, which shows that victim was also having pregnancy.

14. Therefore, considering the facts and circumstances, discussed above, in my applicant is not entitled to be released on bail.

15. Accordingly, without expressing any opinion on the merits of the case, the instant bail application filed on behalf of the applicant - **Mohit Thakur** is **rejected** at this stage.

**Order Date :- 6.12.2023**

Zafar