

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45991 of 2023

Applicant :- Aditya Kumar

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

Counsel for Applicant :- Hira Lal

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Sri Abhishek Mishra, Advocate filed his power on behalf of the informant, today in the Court, is taken record.
2. Heard Sri Hira Lal, learned counsel for the applicant, Sri Abhishek Mishra, learned counsel for the informant and Sri Ravi Kant Kushwaha, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 302 of 2022, under Sections 376, 504, 506, 323, 354-B, 294, 312, 313 IPC and Section 5(L)/(J) (II)/6 POCSO Act, Police Station Saidpur, District Ghazipur during pendency of the trial.
4. FIR of the present case was lodged against applicant and according to the FIR applicant for last two years was sexually exploiting the daughter of the informant aged about 17 years and on 03.10.2022 he again committed rape with her and also made assault upon the victim.
5. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and applicant and victim both were close friends but unfortunately their marriage could not be solemnized, therefore, FIR of the present case was lodged.
6. He further submits that now dispute between the parties have been resolved and applicant is even ready to perform marriage with the victim and neither victim nor informant is having any objection if applicant be released on bail. He further submits that this fact is evident from the application moved by the informant, which has been annexed as Annexure-8 to the affidavit. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 04.11.2022 i.e. for almost a year.

7. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that from perusal of Annexure-8 to the affidavit, it appears that dispute arose between both sides have been resolved.

8. Learned counsel appearing on behalf of the informant also conceded the fact that now dispute between both the sides have been resolved and neither informant nor victim is having any objection, if applicant be enlarged on bail.

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

10. However, in the FIR there is allegation of sexual exploitation but in the statement recorded under Section 164 Cr.P.C. victim stated that she was having love affair with the applicant and she was 18 years old.

11. Further, from the record it reflects that victim, informant and applicant have resolved their dispute and even informant and victim are not having any objection if applicant be enlarged on bail.

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

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

14. Let the applicant - **Aditya Kumar** 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.

15. 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.

16. 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 :- 31.10.2023

AK Pandey