

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45642 of 2023

Applicant :- Anuj Kumar

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

Counsel for Applicant :- Jeetendra Kumar Sharma, Laxmi Dubey

Counsel for Opposite Party :- G.A., Prashant Sharma, Surendra Pratap Singh

Hon'ble Samit Gopal, J.

1. List revised.
2. Heard Sri Jeetendra Kumar Sharma, learned counsel for the applicant, Sri Surendra Pratap Singh, learned counsel for the first informant, Sri Ajay Singh, learned A.G.A.-I for the State and perused the material on record.
3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant Anuj Kumar, seeking enlargement on bail during trial in connection with Case Crime No. 294 of 2023, under Sections 323, 376 IPC and 3/4 POCSO Act, registered at P.S. Phaphund, District Auraiya.
4. The F.I.R. of the matter was lodged on 19.8.2023 by the victim herself against the applicant stating therein that on 19.8.2023 at about 3.30 p.m. she had gone to the fields to cut fodder where after sometime, the applicant came and caught hold of her from behind and forcibly pulled her inside fodder fields and committed rape on her. When she raised a shout, her father reached there and identified the applicant and caught hold of him after which he assaulted her father due to which her father received injuries. She is aged about 18 years.
5. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case due to village enmity, para-14 of the affidavit has been placed before the Court for the same. It is argued that medical examination report does not support the prosecution case. It is further argued that the victim has stated her age to be 18 years in the F.I.R. It is argued that the applicant has no criminal history as stated in para 19 of the affidavit and is in jail since 22.8.2023.
6. Per contra, learned AGA and learned counsel for the first informant opposed the prayer for bail. Learned A.G.A. argued that during investigation the father of the victim was medically examined who was found to have received injuries on his person and even the victim was also found to have received contusion at left side back near scapula. It is argued that there is no reason for the applicant to be falsely implicated in the case. The applicant is named in the F.I.R., the statements under Sections 161 Cr.P.C. and 164 Cr.P.C. and there are allegations against him. It is further argued that as per school records the victim is a minor and even also as per supplementary medical report she is opined probably to be below 18 years in age and as such she is a minor.
7. After having heard learned counsels for the parties and perusing the

records, it is evident that that the victim is a minor girl. Her father is alleged to have received injuries while apprehended the applicant. The victim was also medically examined who has also received injuries. There is no reason coming forward for false implication of the applicant.

8. Looking into the facts and circumstances of the case as well as nature and gravity of the offence, I am not inclined to release the applicant on bail.

9. The bail application is, accordingly, rejected.

(Samit Gopal,J.)

Order Date :- 9.11.2023

Naresh