

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46115 of 2023

Applicant :- Naveen

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

Counsel for Applicant :- Alka Upadhyay, Manish Tiwari

Counsel for Opposite Party :- G.A., Gunjan Sharma

Hon'ble Sameer Jain, J.

1. Sri Imran Khan, learned AGA, for the State, apprised the Court that notice has been served to the informant of the case on 20.10.2023.
2. Despite service of notice, none appeared on behalf of the informant.
3. However, Ms. Gunjan Sharma, learned counsel appearing on behalf of the High Court Legal Services Committee is present.
4. Heard Ms. Alka Upadhyay, learned counsel for the applicant, Ms. Gunjan Sharma, learned counsel appearing for the High Court Legal Services Committee and Sri Imran Khan, learned AGA, for the State.
5. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.173 of 2023, under Sections 376 and 452 IPC and Section 5/6 POCSO Act, Police Station Kotwali Hathras, District Hathras during pendency of the trial.
6. FIR of the present case was lodged against the applicant and according to the FIR, applicant committed rape with the daughter of the informant aged about 12 years in her absence.
7. Learned counsel for the applicant submits that entire allegation made against the applicant is totally false and baseless and applicant has been made accused in the present matter only due to

the reason that he is the neighbour of the informant and some dispute is pending between both the sides.

8. She further submits that however, victim in her both the statements recorded under Sections 161 and 164 Cr.P.C. stated against the applicant but she is hardly 12 years old child and, therefore, under the pressure of her mother, i.e., informant she made allegation of rape against the applicant.

9. She further submits that even from the perusal of both the statements of victim recorded during investigation it reflects that very casually she made allegation of rape against the applicant and even medical report of the victim does not corroborate the allegation of rape.

10. She further submits that that applicant is not having any previous criminal history and in the present matter he is in jail since 21.7.2023.

11. Per contra, learned AGA as well as learned counsel appearing for the High Court Legal Services Committee opposed the prayer for bail and submitted that victim is hardly 12 years old girl and she in her both the statements recorded under Sections 161 and 164 Cr.P.C. made allegation of rape against the applicant and applicant failed to bring any good reason for his false implication and, therefore, he should not be released on bail.

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

13. Considering the fact that victim is hardly 12 years old girl and she in her both the statements recorded under Sections 161 and 164 Cr.P.C. made allegation of rape against the applicant and applicant failed to bring any good reason of his false implication,

in my view, applicant is not entitled to be released on bail at this stage.

14. Accordingly, the instant bail application is **rejected** at this stage.

15. 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 :- 4.12.2023

SKM