

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46410 of 2023

Applicant :- Mohit Soni

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

Counsel for Applicant :- Gaurav Singh Tomar, Subhash Gosain

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Ms. Priyanka Devi Sharma, Advocate, filed her power today on behalf of the informant, which is taken on record.

2. Heard Sri Subhash Gosain, learned counsel for the applicant, Ms. Priyanka Devi Sharma, learned counsel for the informant and Sri Imran Khan, learned AGA for the State-respondent.

3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 161 of 2023, under Sections 363, 366, 376(2)(N), 506 IPC & 5L/6 POCSO Act, Police Station- Madhogarh, District- Jalaun, during pendency of the trial in the court below.

4. FIR of the present case was lodged against applicant on the basis of suspicion and according to the FIR, sister of the informant aged about 17 years was missing from her house since 25.07.2023.

5. Learned counsel for the applicant submitted that on the basis of suspicion, applicant was made accused in the FIR of the present case and when the statement of the victim was recorded under Section 161 Cr.P.C. then she did not even disclose the name of the applicant and stated that she herself had gone to *Bageshwar Temple* and when her statement was recorded under Section 164 Cr.P.C. then she stated that she loved the applicant and she had gone alongwith the applicant and with her consent physical relationship was developed between both of them.

6. He further submitted that even as per the school record, victim was around 18 years' old and even from her statement recorded under Section 164 Cr.P.C., it reflects that she was consenting party.

7. He further submitted that applicant is not having any criminal

history and he is in jail since 08.08.2023.

8. Per contra, learned AGA as well as learned counsel for the informant although, vehemently opposed the prayer for bail but could not dispute the argument on fact advanced by learned counsel for the applicant.

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

10. Considering the fact that even as per the school record, victim was around 18 years' old and she did not even disclose the name of the applicant in her statement recorded under Section 161 Cr.P.C. and from her statement recorded under Section 164 Cr.P.C. she appears to be consenting party, in my view, applicant is entitled to be released on bail.

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

12. Let the applicant- **Mohit Soni** 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.

13. 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.

14. 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 :- 2.11.2023

KK Patel