

**Court No. - 70**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 46925 of 2023

**Applicant :-** Kishan Verma

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

**Counsel for Applicant :-** Deepak Singh

**Counsel for Opposite Party :-** G.A., Archana Singh

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

1. Sri Imran Khan, learned AGA for the State apprised the Court that on 03.11.2023 notice has been served to the informant of the case. Despite service of notice, none appeared on behalf of the informant, however, learned AGA and learned counsel appearing on behalf of High Court Legal Services are present.

2. Heard Sri Deepak Singh, learned counsel for the applicant, Sri Imran Khan, learned AGA for the State and Ms. Archana Singh, learned counsel appearing on behalf of High Court Legal Services.

3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 159 of 2023, under Sections 376, 377, 354, 354(D), 323, 506 IPC & 3/4 POCSO Act, Police Station- Kidwai Nagar, District- Kanpur Nagar, during pendency of the trial in the court below.

4. FIR of the present case was lodged against applicant on 02.08.2023 and according to the FIR, in the absence of the informant, applicant for last one year was sexually exploiting the daughter of the informant aged about 14 years and daughter of the informant informed her that on 25.06.2023 applicant again inserted his finger in her vagina and did indecent activities with her and threatened her to commit murder of her family members.

5. Learned counsel for the applicant submitted that from the perusal of the FIR as well as from both the statements of the victim recorded under Sections 161 Cr.P.C. and 164 Cr.P.C., entire allegation appears to be false and baseless and no reliance can be placed on such absurd allegations.

6. He further submitted that actually applicant and victim both were in love and when this fact was revealed to the mother of the

victim i.e. informant of the case then FIR of the present case was lodged and during investigation, under the pressure of her mother, victim made allegation of rape and sexual exploitation against the applicant. He further submitted that alongwith the instant bail application, applicant has annexed the chatting between applicant and victim and photographs of applicant and victim, which clearly shows that actually it was a case of love affair.

7. He further submitted that however, from the school record, it appears that victim was about 14 years' old but intentionally her ossification test was not conducted during investigation and in fact, she is major girl aged about more than 18 years and even look wise she looked like 18 years' old girl. He further submitted that applicant is hardly 22 years' old young man and he is not having any criminal history and is in jail in the present matter since 12.09.2023.

8. Per contra, learned AGA as well as learned counsel appearing on behalf of High Court Legal Services vehemently opposed the prayer for bail and submitted that applicant was mature adult aged about 22 years and victim was hardly 14 years' old child and even from the photographs and chatting annexed by the applicant alongwith the instant bail application, it reflects that applicant enticed the victim and sexually exploited her.

9. They further submitted that victim in her both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. made allegation of rape and sexual exploitation against the applicant.

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

11. However, as per the argument advanced by the defence counsel, applicant and victim both loved each other and in this regard alongwith the instant bail application, he also annexed the chatting of the applicant and victim and photographs of both of them but victim of the case is a child hardly aged about 14 years and on the other hand, applicant is a fully grown up adult aged about 22 years.

12. Further, victim in her both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. made allegation of rape and sexual exploitation against the applicant.

13. The object of the POCSO Act is to prevent the child from sexual abuse and prima facie, it appears to be a case of sexual

abuse committed by an adult against a child hardly aged about 14 years.

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

15. Accordingly, the instant bail application is ***rejected***.

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 :- 17.11.2023**

KK Patel