

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47039 of 2023

Applicant :- Angad Maurya

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

Counsel for Applicant :- Ram Swaroop

Counsel for Opposite Party :- G.A.,Dinesh Kumar Yadav,Suneel Thekma

Hon'ble Sameer Jain,J.

1. On 20.11.2023 this Court directed the CMO concerned to conduct the ossification test of the victim.
2. Pursuant to the order passed by this Court ossification test report of the victim has been transmitted by CJM concerned and according to ossification test report of the victim her radiological age is about 18 years but below 20 years.
3. Heard Sri Arvind Kumar Srivastava, learned Advocate, holding brief of Sri Ram Swaroop, learned counsel for the applicant, Sri Baldeep Singh, learned Advocate, holding brief of Sri Suneel Thekma, learned counsel for the informant and Sri Jhamman Ram, learned AGA-I, for the State.
4. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.300 of 2023, under Sections 363, 366 and 376 IPC, Section 3/4 POCSO Act and Section 3(2)V SC/ST Act, Police Station Bardah, District Azamgarh during pendency of the trial.
5. FIR of the present case was lodged against the applicant and according to the FIR, applicant enticed away the daughter of the informant aged about 14 years.
6. Learned counsel for the applicant submits that entire allegation made against the applicant is totally false and baseless and this fact

is evident from both the statements of the victim recorded during investigation.

7. He further submits that however as per school record at the time of incident victim was around 14-1/2 years old but in fact she is major aged about more than 18 years and even appearance wise she looks like major.

8. He further submits that after looking to the facts of the case this Court directed the CMO concerned for ossification test of the victim and now ossification test report of the victim is on record and according to it the radiological age of the victim is between 18-20 years and this fact clearly suggests that her parents mentioned her wrong date of birth in her school record and in fact she is major.

9. He further submits that it is a case of love affair and applicant is not having any previous criminal history and in the present matter he is in jail since 27.7.2023.

10. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that according to the school record at the time of incident victim was hardly 14-1/2 years old and, therefore, her consent is immaterial but both the learned counsel could not dispute the fact that as per CMO concerned the radiological age of the victim is 18-20 years.

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

12. However, according to the school record victim appears to be 14-1/2 years old at the time of incident but when on the direction of this Court ossification test of the victim was conducted then her

radiological age was found 18-20 years.

13. Further, victim in her both the statement recorded under Sections 161 and 164 Cr.P.C. stated that she herself had gone along with the applicant and also performed marriage with him.

14. Further, applicant is not having any previous criminal history and in the present matter he is in jail since July, 2023.

15. Therefore, considering the facts and circumstances of the case discussed above, particularly, the statement of the victim recorded during investigation and difference of age of the victim in her school record and her ossification test report, in my view, applicant is entitled to be released on bail.

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

17. Let the applicant-**Angad Maurya** 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.

18. 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.

19. 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 :- 11.12.2023
SKM