

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47186 of 2023

Applicant :- Rajkumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Aditya Kumar Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Aditya Kumar Tripathi, learned counsel for the applicant and Sri Shatrughna Yadav, learned AGA for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 154 of 2023, under Sections 366, 376, 323, 342, 504 IPC, Police Station- Indergarh, District-Kannauj, during pendency of the trial in the court below.

3. FIR of the present case was lodged against applicant and his mother and according to the FIR, daughter of the informant aged about 23 years has missed on 06.06.2023 from her house and after search, informant came to know that applicant has taken her.

4. Learned counsel for the applicant submitted that admittedly victim is major girl aged about 22-23 years and she in her statement recorded under Section 161 Cr.P.C. specifically stated that applicant has forcibly taken her but did not commit rape with her but in her statement recorded under Section 164 Cr.P.C., she changed her earlier version and stated that applicant and two others abducted her and also committed rape with her. He further submitted that contradictions in both the statements of the victim clearly suggests that applicant has been falsely implicated in the present matter.

5. He further submitted that applicant is not having any criminal history and he is in jail since 24.06.2023.

4. Per contra, learned AGA although, opposed the prayer for bail but could not dispute the fact that there are material contradictions in both the statements of the victim recorded during investigation.

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

6. Considering the fact that victim is about 22-23 years' old girl and there are material contradictions in both the statements of the victim recorded under Sections 161 Cr.P.C. and 164 Cr.P.C., in my view, applicant is entitled to be released on bail.

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

8. Let the applicant- **Rajkumar** 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.

9. 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.

10. 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 :- 6.11.2023

KK Patel