

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46832 of 2023

Applicant :- Pardeshi @ Phool Kumar

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

Counsel for Applicant :- Mohammad Mustafa

Counsel for Opposite Party :- G.A.,Shahroze Khan

Hon'ble Umesh Chandra Sharma,J.

1. Heard Sri Shakeel Ahmed Azmi holding brief of Mohammad Mustafa, learned counsel for the applicant, learned AGA for the State, Sri Zafar Khan holding brief of Sri Shahroze Khan, learned counsel for the informant and perused the record.

2. The instant bail application has been filed with a prayer to enlarge the applicant on bail in Case Crime No.0047 of 2023, under Sections 363, 354A, 370 IPC and Section 7/8 POCSO Act, Police Station Kathela Samay Mata, District Siddharth Nagar, during the pendency of trial.

3. It is argued by the learned counsel for the applicant that the applicant is not named in the FIR. However, during the course of investigation when the victim was recovered and her statement was recorded under Sections 161 and 164 CrPC then she stated that she is about 19 years old; being annoyed she left her house and went to Badhani Railway Station and therefrom went to Mumbai and called her cousin Salman who did not accompany her due to fear of his mother and sent her back to Badhani from where she at her own will went to the applicant who has a dance party and started working in his dance party and was earning Rs.1,500/- per night for dance. Therefrom she went to Bablu Bhaiya and Geeta Devi where she was getting Rs.3,000/- per night for dance. She also contends that no bad deed has been committed with her since her mother used to tease and beat her, hence she had left the house. On the basis of the statement of the victim, learned counsel for the applicant contends that neither the applicant had enticed, allured nor abducted the victim. Hence, no case under Sections 363, 366 IPC is made against him. He further contends that the from the statement of the victim it is also very much clear that it is not a case of trafficking and no offence of trafficking has been committed by the applicant. There is no previous criminal history of the applicant. There is no likelihood of his abscondence or tampering with the evidence. The applicant is

languishing in jail since 06.09.2023. In case the applicant is released on bail, he will not misuse the said liberty.

4. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions advanced by the counsel for the applicant.

5. Having regard to the facts, circumstances and the submissions made but without commenting on merits of the case, this Court is of opinion that the applicant has made out a fit case for bail. Accordingly, the bail application is allowed.

6. Let the applicant - **Pardeshi @ Phool Kumar**, involved in the aforesaid case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that he:

(i) shall appear on the date fixed by the trial court;

(ii) shall not tamper with the prosecution evidence;

(iii) shall not pressurize the prosecution witnesses.

7. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 7.12.2023

Shahroz