

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47175 of 2023

Applicant :- Mohd. Nasir

Opposite Party :- State of U.P.

Counsel for Applicant :- Mukesh Joshi

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Mukesh Joshi, learned counsel for the applicant and Sri Rajeev Dhar Dwivedi, learned AGA for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 322 of 2023, under Sections 376(2)(N), 384, 504 IPC & 67 I.T. Act, Police Station- Pakbada, District- Moradabad, during pendency of the trial in the court below.

3. FIR of the present case was lodged against applicant and others on 26.09.2023 and according to the FIR, the daughter of the informant was the student of IFTM University and applicant developed relationship with her and thereafter committed rape with her and also prepared her obscene video and started blackmailing her. It is further mentioned in the FIR that applicant and his family members demanded Rs. 1 lac to delete the video of the victim and thereafter applicant made the video viral. It is further mentioned in the FIR that viraled video has been annexed in pen drive alongwith the instant tehrir.

4. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and admittedly victim i.e. daughter of the informant was major girl and she appears to be consenting party and actually applicant and victim both were in consensual relationship but subsequently some dispute arose and thereafter FIR of the present case was lodged.

5. He further submitted that although, in the FIR it is mentioned that the alleged video, which was of the applicant and victim, was viraled by the applicant but there is no evidence in this regard on record and although, alongwith the FIR, the video was also annexed by the informant in the pen drive but till date,

Investigating Officer did not even note the details of the same in the case diary. He further submitted that even till date, the mandatory certificate under Section 65-B Indian Evidence Act has not been procured by the Investigating Officer.

6. He further submitted that applicant is not having any criminal history and he is in jail since 29.09.2023.

7. Per contra, learned AGA opposed the prayer for bail and submitted that even if victim is major then also applicant is not having license to spoil her life and apparently applicant not only sexually exploited the victim but also prepared her obscene video and as per the allegation, in the alleged obscene video, applicant and victim both were in objectionable position and investigation of the case is still pending, therefore, considering the seriousness of allegation, conduct of the applicant, he should not be released on bail.

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

9. Considering the fact that applicant not only sexually exploited the victim but also prepared her obscene video and obscene video of the victim and applicant is on record and investigation of the case is still pending, in my view, applicant is not entitled to be released on bail.

10. Accordingly, the instant bail application is **rejected** at this state.

11. 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