

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47527 of 2023

Applicant :- Sandeep Kandwal

Opposite Party :- State of U.P.

Counsel for Applicant :- Deependra Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Shri Deependra Singh, learned counsel for the applicant and Shri Rajeev Dhar Dwived, learned AGA for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.88 of 2023, under Sections 376, 384, 386, 354, 323, 504, 506, 328, 419, 420 IPC, Police Station George Town, District Prayagraj, during pendency of the trial in the court below.

3. F.I.R. of the present case was lodged on 07.04.2023 against applicant and his family members and according to the F.I.R., since the year 2019 applicant was sexually exploiting the informant under the false promise of marriage. It is further mentioned in the F.I.R. that applicant did not disclose to the informant that he is a married man.

4. Learned counsel for the applicant submits that entire allegation made against applicant is totally false and baseless and from the F.I.R. as well as from both the statements of victim recorded under Sections 161 and 164 Cr.P.C., it appears that victim was consenting party. He further submits, F.I.R. of the present case was

lodged after three years.

5. He further submits that admittedly informant i.e. victim of the case is a major lady aged about more than 25 years.

6. He further submits that victim was well aware with the fact that applicant was a married man but in spite of that she made physical relationship with him.

7. He further submits that applicant is having no criminal history and he is in jail in the present matter since 14.06.2023, therefore, he may be released on bail.

8. Per contra, learned AGA opposed the prayer for bail and submits that applicant is a married man and under the false promise of marriage, he was sexually exploiting the victim since the year 2019 but could not dispute the fact that F.I.R. of the present case was lodged after three years and victim is a major lady aged about more than 25 years.

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

10. However, from the record, it reflects that applicant is a married man but as per learned counsel for the applicant, victim, who is a major lady, was well aware with the fact that applicant is a married man and defence taken by the applicant cannot be completely ruled out at this stage considering the fact that victim is a major lady aged about more than 25 years.

11. Further, from both the statements of the victim recorded during investigation and even from the F.I.R. her consent is quite apparent and F.I.R. of the case was lodged after three years, as according to

the F.I.R., applicant was sexually exploiting the victim since the year 2019.

12. Further, applicant is having no criminal history and he is in jail in the present matter since 14.06.2023.

13. Therefore, considering the facts and circumstances of the case, discussed above, in my view, applicant is entitled to be released on bail.

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

15. Let the applicant-**Sandeep Kandwal**, 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.

16. 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.

17. 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 :- 23.11.2023/Zafar