

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47895 of 2023

Applicant :- Chandrapal

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

Counsel for Applicant :- Vipin Gangwar

Counsel for Opposite Party :- G.A.,Syed Mohd. Khalid

Hon'ble Sameer Jain,J.

1. Heard Sri Vipin Gangwar, learned counsel for the applicant, Sri Ashok Kumar Yadav, Advocate, holding brief of Sri Syed Mohd. Khalid, learned counsel for the informant 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. 221 of 2023, under Sections 363, 366, 376(2)(n) IPC & 5L/6 POCSO Act, Police Station-Sheeshgarh, District- Bareilly, during pendency of the trial in the court below.
3. FIR of the present case was lodged against applicant and according to the FIR, applicant enticed away the daughter of the informant aged about 14 years.
4. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and actually daughter of the informant was major girl aged about more than 18 years and she herself had gone alongwith the applicant and also performed marriage with him and this fact is evident from her statement recorded under Section 164 Cr.P.C. He further submitted that even from her statement recorded under Section 161 Cr.P.C. it appears that she did not level any allegation agaisnt the applicant.
5. He further submitted that admittedly even as per the school record and certificate of CMO concerned, at the time of lodging of FIR, victim i.e. daughter of the informant was major girl aged about 19 years.
6. He further submitted that as in her statement recorded under Section 164 Cr.P.C. victim stated that she and applicant earlier

made physical relationship with each other and she also conceived with the applicant, therefore, applicant was made accused in the present matter.

7. He further submitted that even at present victim is residing in the house of the applicant and applicant is ready to register his marriage with the victim when he will release on bail.

8. He further submitted that applicant is not having any criminal history and he is in jail since 05.09.2023.

9. Per contra, learned AGA although, opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

10. Learned counsel for the informant also conceded the fact that applicant and victim both have performed marriage with each other and even victim at present is residing in the house of the applicant.

11. He further submitted that informant is not having any objection if applicant be enlarged on bail subject to the condition that after release on bail he will register his marriage with the victim.

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

13. Considering the fact that victim at the time of lodging of FIR was more than 18 years of age and she in her both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. did not make any allegation against the applicant and she has already performed marriage with him and even informant is not having any objection if the applicant be enlarged on bail, 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- **Chandrapal** 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.

(iv) After release on bail, applicant shall register his marriage with the victim within three months.

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 :- 24.11.2023

KK Patel