

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 56263 of 2022

Applicant :- Manish Kumar Maddheshiya @ Gupta

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

Counsel for Applicant :- Juned Alam,R.K. Shahi,Rameshwar Datt Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1.Notice of the instant application has been served on the informant on 12.12.2022 and in the office of C.W.C., Kushinagar on 15.12.2022. The receiving endorsements are annexed as Annexure-C.A.-1 & 2 to the counter affidavit, however when the case is called out no one has appeared on behalf of the said opposite parties nor any counter affidavit has been filed on their behalf.

2. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

3. The instant bail application, under Section 439 Cr.P.C., has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 266 of 2022, under Sections 354, 506 I.P.C., under Section 67 I.T. Act and under Section 7/8 POCSO Act, Police Station-Vishunpura, District- Kushi Nagar during pendency of the trial.

4. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. The victim is a major girl. The applicant and victim were in relationship. The allegations have emerged solely on account of the fact that the parents of the victim have totally disapproved the conduct of the applicant. There is no report of cyber cell that the applicant had made viral the indecent photographs of the victim on the social media. The applicant is a young student whose career would be jeopardized as a result of the instant case. It is next contended that the trial is moving at a snail's pace and is not likely to conclude early. The applicant is not responsible for the delay in the trial. Inordinate delay in concluding the trial has led to virtually and indefinite imprisonment of the applicant without there being any credible evidence to implicate him in the offence and violates the rights of the applicant to a speedy trial. The applicant does not have any criminal history. The applicant is in jail since 18.10.2022. In case he is enlarged on bail, he will not misuse the said liberty.

5. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having heard counsel for the parties and having perused the record, this Court prima facie finds that there is no report of cyber cell that the applicant had made viral the indecent photographs of the victim on social media. At present there is no substantive evidence against the applicant. The applicant has no criminal antecedents. Further the applicant has presently remained confined for almost one year and there is no hope of early conclusion of trial, more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper with the evidence or intimidate the witness, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant, **Manish Kumar Maddheshiya @ Gupta** involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not tamper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness;
- iii. the applicant shall appear on each and every date fixed by the trial court.

8. 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 :- 16.10.2023
S.S.