

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48621 of 2023

Applicant :- Dhaniram

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

Counsel for Applicant :- Ram Krishna Chaurasia

Counsel for Opposite Party :- G.A.,Manju Lata Verma,Ram Sumer Chaudhary

Hon'ble Sameer Jain,J.

1. Heard Sri Ram Krishna Chaurasiya, learned counsel for the applicant, Smt. Manju Lata Verma, learned counsel for the informant and Sri R.N. Srivastava, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 282 of 2023, under Sections 363, 366, 376(3)/511 IPC & 3/4/18 POCSO Act, Police Station-Bisanda, District- Banda, during pendency of the trial in the court below.
3. FIR of the present case was lodged on 16.07.2023 under Sections 363, 366 IPC and according to the FIR, on 30.05.2023 applicant enticed away the minor sisters of the informant aged about 17 years and 13 years respectively.
4. Learned counsel for the applicant submitted that FIR of the present case was lodged after more than one and half months and this fact itself shows that on the basis of false allegation, applicant has been made accused in the present matter.
5. He further submitted that when the statements of the victims were recorded under Section 161 Cr.P.C. then they did not state anything against the applicant and one of the sister of the informant stated that she herself had gone alongwith the applicant to Ahmedabad to earn money and more or less, similar statement was given by her younger sister, however, she also stated that her elder sister and applicant forcibly taken her for earning money.

6. He further submitted that when the statement of one of the victim, who is aged about 17 years, was recorded under Section 164 Cr.P.C. then she stated that she loved the applicant and she herself had gone along with him and when statement of her younger sister was recorded under Section 164 Cr.P.C. then very casually she stated that applicant tried to commit rape with her. He further submitted that admittedly there is no allegation of rape against the applicant.

7. He further submitted that applicant is not having any criminal history and he is in jail since 25.07.2023.

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

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

10. After considering the statements of both the sisters of the informant recorded under Sections 161 Cr.P.C. and 164 Cr.P.C., in my view, applicant is entitled to be released on bail.

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

12. Let the applicant- **Dhaniram** 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.

13. 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.

14. 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

KK Patel