

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47396 of 2023

Applicant :- Ikrar

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

Counsel for Applicant :- Ajay Kumar Vashistha

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Sri Jhamman Ram, learned AGA apprised the Court that on 7.10.2023 notice has been served to the informant. Despite service of notice, none appeared on behalf of the informant.
2. Heard Sri Ajay Kumar Vashistha, learned counsel for the applicant and Sri Jhamman Ram, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 603 of 2023, under Sections 363, 366, 376 IPC and section 4 POCSO Act, Police Station Kotwali, District Lalitpur, during pendency of the trial in the court below.
4. FIR of the present case was lodged against unknown person and according to the FIR, sister of the informant aged about 17 years had gone from her house but did not return.
5. Learned counsel for the applicant submitted that applicant was not named in the FIR and during investigation when the statements of the victim were recorded under sections 161 and 164 Cr.P.C. then she categorically stated that she herself had gone alongwith the applicant and she did not make any allegation against him.
6. He further submitted that even as per school record and ossification test report, victim was about 18 years old and therefore, it appears that she is major.
7. He further submitted that it is a case of love affair and applicant is having no criminal history and he is in jail in the present matter since 13.8.2023.
8. Per contra, learned AGA opposed the prayer for bail but could

not dispute the arguments 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. Considering the fact that even as per school record and report of the CMO, victim appears to be about 18 years old and she did not make any allegation against the applicant in her both the statements recorded during investigation, 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-**Ikrar**, 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 :- 7.11.2023

Ankita