

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47802 of 2023

Applicant :- Vinod Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajeet Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri A.K. Srivastava, learned counsel for the applicant and Sri Shatrughan Yadav, learned A.G.A. for the State.

2. The instant bail application has been filed on behalf of the applicant seeking release on bail in Case Crime No. 238 of 2023 under section 366, 506, 376 IPC, Police Station Milak, District Rampur.

3. FIR of the present case was lodged against the applicant and co-accused Akhilesh and according to the FIR, daughter of the informant aged about 18 years had gone somewhere at about 08.00 p.m. in the evening and she returned next day at about 04.00 a.m. in the morning and informed that applicant and co-accused Akhilesh enticed her away and thereafter she had gone to Delhi with the applicant. She further informed the informant that applicant committed rape upon her.

4. Learned counsel for the applicant submits, entire story narrated by the informant in the FIR appears to be improbable and totally on the basis of false allegations, applicant has been made accused in the present matter.

5. He next submits that admittedly the victim is a major girl aged about 18 years and actually victim and applicant were having love affair and victim herself had gone along with the applicant but when the said fact has been revealed to the informant, then he lodged the FIR of the present case.

6. He further submits when the statement of the victim was recorded during investigation, then she made the allegation of rape against the applicant under the pressure of the informant. He next submits that from both the statements of the victim, it appears that

she was a consenting party and the story narrated by her does not inspire any confidence.

7. He next submits applicant is not having any previous criminal history and he is in jail since 13.9.2023.

8. *Per contra*, learned A.G.A. opposed the prayer for bail and submits that victim in both her statements recorded during investigation, has made allegation of rape against the applicant but he could not dispute the fact that victim is a major girl aged about 18 years and from her statement recorded under section 164 Cr.P.C, her consent is apparent.

9. I have heard both sides and perused the record of the case.

10. However, victim, in both her statements recorded under sections 161 and 164 Cr.P.C. during investigation, has made allegation of rape against the applicant but the story narrated by her does not inspire any confidence. Further, victim is a major girl aged about 18 years and even from her statement recorded under section 164 Cr.P.C, her consent is quite apparent. Further, applicant is not having any previous criminal history and he is in jail since 13.9.2023.

11. Considering the facts and circumstances of the case as discussed above, I am of the view that applicant is entitled to be released on bail.

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

13. Let the applicant **Vinod Kumar** 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.

14. In case of breach of any of the above conditions, the prosecution will be at liberty to move an application before this Court for cancellation of bail of the applicant.

15. 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 :- 8.11.2023

Madhurima