

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47749 of 2023

Applicant :- Suraj @ Golu

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

Counsel for Applicant :- Vijay Bahadur Maurya

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Dr. S.B. Maurya, learned AGA-I for the State apprised the Court that on 06.11.2023 notice has been served to the informant of the case. Despite service of notice, none appeared on behalf of the informant.

2. Heard Sri Vijay Bahadur Maurya, learned counsel for the applicant and Dr. S.B. Maurya, learned AGA-I for the State-respondent.

3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 169 of 2023, under Sections 363, 366, 376, 323, 506 IPC & 3/4(2) POCSO Act, Police Station-Shivrajpur, District- Kanpur Nagar, during pendency of the trial in the court below.

4. FIR of the present case was lodged against the applicant and according to the FIR, applicant enticed away the daughter of the informant aged about 15 years and thereafter sexually exploited her under the false promise of marriage throughout the night and subsequently after dropping her ran away.

5. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and actually victim and applicant were having good friendship and applicant was aware that victim till date could not attain the age of majority, therefore, he could not perform marriage with her but when the fact of friendship of the applicant and victim was disclosed to the informant then he lodged FIR of the present case.

6. He further submitted that during investigation victim under the pressure of her parents stated against the applicant and even from her statement, it appears that she is not a truthful witness and there

are material contradictions in the story narrated in the FIR and narrated by the victim in her both the statements recorded during investigation.

7. He further submitted that applicant is not having any criminal history and he is in jail since 06.06.2023.

8. Per contra, learned AGA opposed the prayer for bail and submitted that victim is hardly 15 years' old girl and on the other hand applicant is adult man aged about 22 years and it appears that he used the victim and sexually exploited her and thereafter refused to perform marriage with her, therefore, considering the provisions of POCSO Act, he should not be released on bail.

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

10. Considering the fact that victim is hardly 15 years' old immature child and applicant is a mature adult aged about 22 years and victim in her both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. stated that applicant committed rape with her under the false promise of marriage and thereafter left her, in my view, applicant is not entitled to be released on bail.

11. Accordingly, the instant bail application is ***rejected***.

12. 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