

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47964 of 2023

Applicant :- Abhishek

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

Counsel for Applicant :- Devesh Kumar Gupta

Counsel for Opposite Party :- G.A.,Alok Kumar Singh,Samar Singh

Hon'ble Sameer Jain,J.

1. Heard Sri Devesh Kumar Gupta, learned counsel for the applicant; Sri Alok Kumar Singh, learned counsel for the informant and Sri Ravi Kant Kushwaha, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 162 of 2023, under Sections 376(3), 342, 506 IPC & 5/6 POCSO Act, Police Station Ghazipur, District Fatehpur, during pendency of the trial in the court below.
3. FIR of the present case was lodged on 6.6.2023 against the applicant and his bhabhi, Reena Devi and according to the FIR on 25.10.2022 bhabhi of the applicant has taken the informant aged about 16 years to her home where applicant committed rape with her and thereafter continuously applicant committed rape with her under the false promise of marriage and due to the sexual exploitation of the applicant, informant become pregnant with the applicant and subsequently, he refused to perform marriage with her.
4. Learned counsel for the applicant submitted that on the basis of false allegation, applicant has been made accused in the present matter alongwith his bhabhi after about 8 months and actually, she was not having any relationship with the informant and due to enmity, applicant has been made accused in the present matter.
5. He further submitted that story narrated by the victim in the FIR as well as in both the statements recorded during investigation appears to be quite improbable and no reliance can be placed on such version.
6. He further submitted that there are material contradictions in the

statements of the victim recorded during investigation.

7. He further submitted that applicant is having no criminal history and he is in jail in the present matter since 10.6.2023.

8. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that due to continuous sexual exploitation of the applicant, victim become pregnant and when victim came to know that she is pregnant, she informed the applicant but applicant refused to perform marriage with her and then she had to lodge the FIR of the present case and therefore, delay of eight months in lodging the FIR is explained. They further submitted that considering the facts and circumstances of the case and conduct of the applicant, he should not be released on bail.

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

10. However, from the the record, it appears that FIR of the present case was lodged after eight months from the first date of alleged rape but it is a case of sexual exploitation and according to the victim, applicant continuously sexually exploited her and due to the sexual exploitation, she became pregnant and thereafter, he refused to perform marriage with her and therefore, I find force in the argument advanced by learned counsel for the informant and learned AGA that when victim came to know about her pregnancy then she lodged the FIR of the present case and therefore, there is delay in lodging the FIR of the present case.

11. Therefore, considering the facts and circumstances of the case, discussed above, I am not inclined to release the applicant on bail.

12. Accordingly, the instant bail application stands ***rejected***.

13. 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

Ankita