

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48471 of 2023

Applicant :- Sannu Bansfor

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

Counsel for Applicant :- Shyam Sunder Maurya

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Sri Jhamman Ram, learned AGA-I, for the State, apprised the Court that notice has been served to the informant of the case on 3.11.2023.
2. Despite service of notice, none appeared on behalf of the informant.
3. Heard Sri Shyam Sunder Maurya, learned counsel for the applicant and Sri Jhamman Ram, learned AGA-I, for the State.
4. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.226 of 2023, under Sections 366, 363, 376 and 506 IPC and Section 5L/6 POCSO Act, Police Station Kasimabad, District Ghazipur during pendency of the trial.
5. FIR of the present case was lodged against the applicant and according to the FIR, applicant enticed away the younger sister of the informant aged about 14 years.
6. Learned counsel for the applicant submits that entire allegation made against the applicant is totally false and baseless and this fact is evident from both the statements of the victim recorded under Sections 161 and 164 Cr.P.C.
7. He further submits that from the perusal of the statement of the victim recorded under Section 161 Cr.P.C. it appears that victim

herself called the applicant and with her consent physical relationship were developed between her and applicant. However, when her statement under Section 164 Cr.P.C. was recorded then she changed her version and stated that applicant abducted her but in her statement recorded under Section 164 Cr.P.C. she stated that applicant did not commit rape upon her and all these facts clearly suggest that applicant has falsely been implicated in the present matter.

8. He further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 23.9.2023.

9. Per contra, learned AGA opposed the prayer for bail and submits that admittedly even as per the applicant, he is a married man and on the other hand victim was a child below 18 years of age and she in her statement under Section 164 Cr.P.C. stated that applicant abducted her and in her statement under Section 161 Cr.P.C. she also stated that applicant made physical relationship with her and, therefore, considering the age of the victim and the marital status of the applicant, he should not be released on bail.

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

11. Considering the fact that applicant is a married man and victim is a child as per the provisions of POCSO Act and she in her statement under Section 161 Cr.P.C. stated that applicant several times made physical relationship with her and in the statement under Section 164 Cr.P.C. she stated that applicant abducted her, in my view, applicant is not entitled to be released on bail at this stage.

12. Accordingly, the instant bail application is **rejected** at this

stage.

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 :- 29.11.2023

SKM