

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48127 of 2023

Applicant :- Govind Prasad @ Golu

Opposite Party :- State of U.P.

Counsel for Applicant :- Pawan Kumar, Satish Kumar Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Shri Pawan Kumar, learned counsel for the applicant and Shri Jhamman Lal, learned A.G.A. for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.135 of 2023, under Sections 366, 376 IPC, Police Station Sonauli, District Maharajganj, during pendency of the trial in the court below.
3. FIR of the present case was lodged on 14.09.2023, under Sections 363 I.P.C. against unknown person and according to the FIR, on 11.09.2023 daughter of the informant aged about 16 years had gone somewhere from her house and did not return.
4. Learned counsel for the applicant submits that nobody was named in the F.I.R. but when victim was recovered and her statement was recorded under Section 161 Cr.P.C. then she disclosed the name of the applicant and thereafter applicant was made accused in the present matter.
5. He further submits that in her both the statements recorded under Sections 161 and 164 Cr.P.C., victim made allegation of rape against the applicant but her both the statements appears to be false and improbable and no reliance can be placed on such absurd version.

6. He further submits in the F.I.R., the age of the victim was disclosed as sixteen years but during investigation, it was revealed that she was a major girl aged about nineteen years. He next submits that actually victim wanted to perform marriage with the applicant but applicant was not ready and only due to this reason, applicant has been made accused in the present matter by her. He further submits that even from her statements recorded under Sections 161 and 164 Cr.P.C., it appears that victim was having friendship with the applicant and as per her statement under Section 164 Cr.P.C. applicant has made promise to perform marriage with her.

7. He further submits that applicant is not having any criminal history and he is in jail in the present matter since 28.09.2023, therefore, he may be released on bail.

8. Per contra, learned AGA opposed the prayer for bail and submits that victim in her both the statements recorded under Sections 161 and 164 Cr.P.C. made allegation of rape against the applicant but he could not dispute the fact that during investigation, it was revealed that victim was major aged about nineteen years.

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

10. However, in the statements of the victim recorded under Sections 161 and 164 Cr.P.C., there is allegation of rape against the applicant but story narrated by the victim in her both the statements recorded during investigation appears to be vague and prima-faice on the basis of such version at this stage, it cannot be said that applicant committed rape with her.

11. Further, during investigation, it was revealed that victim

was a major girl aged about nineteen years and after considering the statements of the victim recorded under Sections 161 and 164 Cr.P.C. at this stage argument advanced by learned counsel for the applicant cannot be completely disbelieved.

12. Further, applicant is not having any criminal history and he is in jail in the present matter since 28.09.2023.

13. Therefore, considering the facts and circumstances, discussed above, in my view, applicant is entitled to be released on bail.

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

15. Let the applicant- **Govind Prasad @ Golu**, 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.

16. 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.

17. 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 :- 21.11.2023

Zafar