

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 57133 of 2022

Applicant :- Sujeet

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

Counsel for Applicant :- Rajeev Kumar, Dinesh Kumar Yadav, Krishna Gopal Yadav

Counsel for Opposite Party :- G.A., Amit Kumar Asthana

Hon'ble Sameer Jain, J.

1. Counter affidavit filed today on behalf of the informant is taken on record.
2. Heard Sri Vivek Dubey, Advocate, holding brief of Sri Dinesh Kumar Yadav, learned counsel for the applicant, Sri Amit Kumar Asthana, learned counsel for the informant and Sri Santosh Nigam, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 264 of 2022, under Sections 376, 352, 504, 506 IPC 3/4 POCSO Act, Police Station- Atrauliya, District- Azamgarh, 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 sexually exploited the daughter of the informant aged about 15 years and due to his sexual exploitation, she also conceived.
5. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and although, as per the allegation, victim was around 15 years' old and applicant sexually exploited her but entire allegation is totally false and actually victim is major girl aged about more than 18 years and this fact is evident from the ossification test report of the victim. He further submitted that even from both the statements of the victim recorded during investigation, it appears that she was consenting party. He further submitted that even today applicant is ready to perform marriage with her.
6. He further submitted that applicant is not having any criminal

history and he is in jail since 01.08.2022 i.e. for more than a year.

7. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that applicant is fully grownup man and he sexually exploited the victim, who was below 18 years' old and due to his sexual exploitation, she also conceived and this fact is evident from her medical report, which has been annexed alongwith the counter affidavit.

8. Learned counsel for the informant also submitted that applicant is also having previous criminal history of a case of similar nature of Section 376 IPC and 3/4 POCSO Act and, therefore, applicant 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 prima facie, it appears that due to sexual exploitation of the applicant, victim also conceived and she was hardly 17-18 years' old, 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 :- 1.11.2023

KK Patel