

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 58346 of 2022

Applicant :- Sarfaraz

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

Counsel for Applicant :- Rajesh Shukla, Ajay Kumar

Jagdish, Alok Kumar, Shambhu Mani Tripathi, Vikas Sharma

Counsel for Opposite Party :- G.A., Chandra Badan, Sandeep Kumar

Hon'ble Sameer Jain, J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. None appeared on behalf of the informant even in the revised call. However, learned AGA for the State-respondent is present.
3. Heard Sri Shambhu Mani Tripathi, Ajay Kumar Jagdish and Alok Kumar, learned counsel for the applicant and Dr. S. B. Maurya, learned AGA-I for the State-respondent.
4. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 339 of 2022, under Sections 376D, 506 IPC and Section 5G/6 of POCSO Act and Section 67 of I.T. Act, 2000, Police Station Nakud, District Saharanpur, during pendency of the trial in the court below.
5. FIR of the present case was lodged against the applicant and one Bilal and according to the FIR applicant sexually exploited the victim in the year 2017 and on number of occasions he committed rape upon her and on 4.9.2022 he threatened her.
6. Learned counsel for the applicant submitted that the entire allegations made against the applicant are totally false and baseless and however, victim and informant both during investigation stated against the applicant but when both appeared before the court concerned during trial then they did not support the prosecution case and both have declared hostile.
7. He further submitted that applicant is having no criminal history and he is in jail in the present matter since 7.9.2022 i.e. for last more than a year.

8. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that during trial victim and informant both have declared hostile and applicant is having no criminal history and he is in jail in the present matter since 7.9.2022 i.e. for last more than a year.

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

10. Considering the fact that during trial informant and victim both have declared hostile and applicant is having no criminal history and he is in jail in the present matter since 7.9.2022 i.e. for last more than a year, in my view, applicant is entitled to be released on bail.

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

12. Let the applicant-**Sarfaraz**, 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.

13. 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.

14. 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 :- 12.12.2023

Ankita