

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 57477 of 2022

Applicant :- Suneel Verma

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

Counsel for Applicant :- Rahul Singh

Counsel for Opposite Party :- G.A.,Shweta Singh Rana

Hon'ble Samit Gopal,J.

1. List revised.
2. Heard Sri Rahul Singh, learned counsel for the applicant, Sri Ajay Singh, learned A.G.A-1 for the State and perused the material on record. Ms. Shweta Singh Rana, learned panel lawyer of the High Court Legal Service Committee is not present even when the matter has been taken up in the revised list.
3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant-Suneel Verma, seeking enlargement on bail during trial in connection with Case Crime No.30 of 2022, under Section 363, 366, 376(3) IPC and Section 4 of POCSO Act, registered at Police Station Lalpura, District Hamirpur.
4. Notice was issued to the opposite party no.2 vide order dated 16.12.2022. As per office report dated 13.1.2023, the report of the CJM, Hamirpur has been received stating therein that notice has been served upon the opposite party no.2 personally but no one appears on behalf of opposite party no.2 even when the matter is taken up in the revised list despite service of notice.
5. The FIR of the matter was lodged on 23.3.2022 by Halkey under Sections 363, 366 IPC against the applicant alleging therein that on 22.3.2022 at about 1 p.m. his daughter aged about 15 years has been lured and enticed away by the applicant. At that time he and his family members were working in the fields. She was searched a lot but could not be traced out.
6. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that except for the certificate of the Principal of the school, there is no other document to show the age of the victim. It is argued that no

ossification of the victim has been got conducted after medical examination. It is argued that the victim was a consenting party to the occurrence. The victim in her statement under Section 164 Cr.P.C. stated that she was called by the applicant on phone to come outside the village where she went and then she out of her own volition went with him and they established physical relationship like husband and wife. They were in love with each other. The same would go to show that the victim is a consenting party. It has also been pointed out that the applicant is not having any criminal history as stated in para 27 of the affidavit and is in jail since 26.3.2022.

7. Per contra learned counsel for the State vehemently opposed the prayer for bail and argued that the victim as per her school records was 14 years and 10 months at the time of incident. The applicant is named in the FIR. It is argued that the statement of the victim was recorded during investigation. Since the victim is a minor, her consent is of no worth, hence bail be rejected.

8. After hearing the counsel for the parties and perusing the record, it is evident that the victim as per her school records was 14 years and 10 months at the time of incident and was minor. The applicant is named in the FIR, in the statements of the victim under Section 161 Cr.P.C. and 164 Cr.P.C. The consent of a minor is of no worth.

9. Looking to the facts and circumstances of the case, I do not find it a fit case for bail, hence, the bail application is **rejected**.

(Samit Gopal, J.)

Order Date :- 23.11.2023
Gaurav Kuls