

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49018 of 2023

Applicant :- Sanjeev Kumar

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

Counsel for Applicant :- Pradeep Kumar Singh, Jitendra Pal Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Sri Imran Khan, learned AGA, for the State, apprised the Court that notice has been served to the informant of the case on 10.11.2023.
2. Despite service of notice, none appeared on behalf of the informant.
3. Heard Sri Jitendra Pal Singh, learned counsel for the applicant and Sri Imran Khan, learned AGA, 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.196 of 2023, under Sections 457, 363, 376(3) and 109 IPC and Section 4/17 POCSO Act, Police Station Deoriya Kalan, District Pilibhit during pendency of the trial.
5. FIR of the present case was lodged against the applicant, his maternal uncle Vijay Pal and sister Khushbu Devi and according to the FIR, in the intervening night of 21/22.8.2023 applicant along with his maternal uncle Vijay Pal entered in the house of the informant and on the point of country made pistol they have abducted the daughter of the informant aged about 15 years.
6. Learned counsel for the applicant submits that entire allegation made against the applicant is totally false and baseless and neither

in the FIR nor in the statement of the victim recorded under Section 161 Cr.P.C. there was any allegation of rape but when the statement of the victim was recorded under Section 164 Cr.P.C. then she stated that co-accused Vijay Pal, the maternal uncle of applicant committed rape with her.

7. He further submits that actually informant side wanted to perform marriage of his daughter along with co-accused Vijay Pal, maternal uncle of applicant but when family members of co-accused Vijay Pal did not accept their proposal then FIR of the present case was lodged on the basis of false allegation.

8. He further submits that however as per allegation when the applicant was arrested, from his possession country made pistol was recovered but entire recovery of country made pistol is false and planted one and except the present case and the case under Section 25 Arms Act, there is no other case is pending against the applicant.

9. He further submits that applicant is in jail in the present matter since 23.8.2023.

10. Per contra, learned AGA opposed the prayer for bail but could not dispute the argument on facts advanced by the learned counsel for the applicant.

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

12. There is no allegation of rape in the statement of the victim recorded under Section 161 Cr.P.C. and she made allegation of rape only in her statement recorded under Section 164 Cr.P.C. only against co-accused Vijay Pal, in my view, applicant is entitled to be released on bail.

13. Therefore, considering the facts and circumstances of the case 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-**Sanjeev Kumar** 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 :- 30.11.2023
SKM