

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49137 of 2023

Applicant :- Veeru

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

Counsel for Applicant :- Munna Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Sri Kunwar Tejendra Bahadur, learned AGA, for the State, apprised the Court that notice has been served to the informant of the case on 16.11.2023.
2. Despite service of notice, none appeared on behalf of the informant.
3. Heard Sri Munna Tiwari, learned counsel for the applicant and Sri Kunwar Tejendra Bahadur, 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.626 of 2023, under Sections 363, 366 and 376 IPC and Section 5/6 POCSO Act, Police Station Gagha, District Gorakhpur during pendency of the trial.
5. FIR of the present case was lodged against the applicant and according to the FIR, applicant under the false promise of marriage has taken the daughter of the informant aged about 18 years.
6. Learned counsel for the applicant submits that entire allegation made against the applicant is totally false and baseless and actually victim herself had gone along with applicant and this fact is evident from her both the statements recorded under Sections 161 and 164 Cr.P.C.

7. He further submits that actually victim and applicant both loved each other and they wanted to perform marriage but in the meantime, applicant was arrested.

8. He further submits that even from the statement of the victim recorded under Section 164 Cr.P.C. it appears that she was pregnant from applicant and even victim is the deponent of the present case and is residing in the house of applicant

9. He further submits that however as per record at the time of incident victim was about 17 and 1/2 years old but her ossification test was not conducted during investigation and even victim and informant both disclosed her age 18 years.

10. He further submits that it is a case of love affair and applicant is not having any previous criminal history and in the present matter he is in jail since 27.9.2023.

11. Per contra, learned AGA although opposed the prayer for bail but he could not dispute the fact that victim of the present case is the deponent of the instant bail application and is residing in the house of applicant and she did not make any allegation against the applicant in her both the statements recorded during investigation.

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

13. From the record it reflects that even as per school record of the victim at the time of incident she was about 17 and 1/2 years old and even informant has disclosed her age as 17 and 1/2 years and victim in her both the statements recorded under Sections 161 and 164 Cr.P.C. did not make any allegation against the applicant and

in her statement recorded under Section 164 Cr.P.C. she disclosed that she is pregnant from the applicant.

14. Further, victim herself is the deponent in the instant bail application filed by applicant, therefore, it appears to be a case of love affair.

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

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

17. Let the applicant-**Veeru** 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.

18. 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.

19. 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