

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50822 of 2023

Applicant :- Vinay Tiwari

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Shalvin

Counsel for Opposite Party :- G.A., Digvijay Singh, Rajesh Kumar Nishad

Hon'ble Sameer Jain, J.

1. Heard Sri Shalvin, learned counsel for the applicant, Sri Rajesh Kumar Nishad, learned counsel for the informant and Sri Pradeep Kumar, learned AGA for the State.
2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 32 of 2023, under Sections 376, 420, 406, 323, 504 & 506 IPC, Police Station Jaspura, District Banda during pendency of the trial.
3. FIR of the present case was lodged on 11.4.2023 against applicant and one Kishanchand Tiwari and according to the FIR informant developed closeness with the applicant and thereafter applicant under the false promise of marriage was sexually exploiting her since the year 2019. It is further mentioned in the FIR that applicant also duped Rs. 4,25,000/- from the informant. It is further mentioned in the FIR that in spite of promise applicant did not perform marriage with the informant.
4. Learned counsel for the applicant submits that entire allegation made against the applicant is totally false and this fact is even evident from the FIR and both the statements of victim recorded under Section 161 Cr.P.C. and 164 Cr.P.C.
5. He further submits that victim is the informant of the case and

she is middle aged lady aged about 47 years and on the other hand applicant is hardly 25 years old and even from the record the consent of the victim is quite apparent.

6. He further submits that applicant is having criminal history of one case and his criminal history has been satisfactorily explained in the instant bail application and he is in jail since 26.6.2023.

7. Per contra, learned AGA and learned counsel for the informant opposed the prayer for bail and submit applicant sexually exploited the victim under the false promise of marriage but could not dispute the fact that applicant is hardly 25 years old while victim is 47 years old middle aged lady and even from the record her consent is apparent. However, they further submit that applicant has a criminal history of one case under Section 353 IPC but could not dispute the fact that criminal history of the applicant has satisfactorily been explained in the affidavit.

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

9. Considering the fact that victim i.e. informant of the case is middle aged lady aged about 47 years and applicant is about 25 years old and consent of the informant is apparent from the record, in my view, applicant is entitled to be released on bail.

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

11. Let the applicant-Vinay Tiwari 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.

12. 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.

13. 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 :- 28.11.2023

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