

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49584 of 2023

Applicant :- Sahil @ Chetu

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

Counsel for Applicant :- Atmaram Nadiwal, Dinesh Kumar Yadav

Counsel for Opposite Party :- G.A., Sunil Kumar Tiwari

Hon'ble Sameer Jain, J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Gaurav Pal Singh, Advocate holding brief of Sri D.K. Yadav, learned counsel for the applicant, Sri Sunil Kumar Tiwari, learned counsel for the informant and Sri Shatrughan Yadav, learned AGA for the State.
3. The instant bail application has been filed on behalf of the applicant seeking release on bail in Case Crime No. 146 of 2023 under sections 363, 366, 376, 342, 323, 506, 120-B IPC and 3/4 POCSO Act, Police Station Rampur Maniharan, District Saharanpur.
4. FIR of the present case was lodged against the applicant and three others and according to the FIR, applicant enticed away the daughter of the informant, aged about 17 years.
5. Learned counsel for the applicant submits, the entire allegations made against the applicant are false and baseless and this fact is evident from the statement of the victim recorded under section 161 Cr.P.C. He further submits that subsequently, while recording her statement under section 164 Cr.P.C., the victim changed her version and stated that applicant committed rape with her in a hotel situated at Shimla, Himachal Pradesh. He further submits actually, victim who is aged about 18 years, loved the applicant and she herself had gone along with him and she narrated the correct facts in her statement recorded under section 161 Cr.P.C. but subsequently, under the pressure of her parents, in her statement recorded under section 164 Cr.P.C., she made allegations of rape against the applicant.
6. He further submits applicant is not having any criminal history and he is in jail since 28.7.2023.
7. *Per contra*, learned A.G.A. as well as counsel appearing on behalf of the informant opposed the prayer for bail and submit that victim in her statement under section 164 Cr.P.C. stated that applicant forcibly committed rape upon her in a hotel situated in Shimla but both the counsels could not dispute the fact that even as per

her school record, she is around 18 years of age and in her statement recorded u/s. 161 Cr.P.C., she categorically stated that she herself had gone along with the applicant and started living as his wife.

8. I have heard all sides and perused the record of the case.

9. Considering the fact that even in her school records, the victim was around 18 years of age and there are material contradictions in both her statements recorded u/s. 161 Cr.P.C. and 164 Cr.P.C., in my view, the applicant is entitled to be released on bail.

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

11. Let the applicant **Sahil @ Chetu** 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 conditions, the prosecution will be at liberty to move an application before this Court for cancellation of 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 :- 4.12.2023/Madhurima