

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49549 of 2023

Applicant :- Karan Chauhan

Opposite Party :- State of U.P.

Counsel for Applicant :- Manoj Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Manoj Kumar, learned counsel for the applicant and Sri Imran Khan, learned AGA, for the State.
2. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.432 of 2022, under Sections 366 and 376 IPC, Police Station Kavinagar, District Ghaziabad during pendency of the trial.
3. FIR of the present case was lodged on 30.5.2023 against the applicant under Section 366 IPC and according to the FIR, applicant used to talk with the daughter of the informant on Instagram, who was aged about 18 years, and he enticed her away.
4. Learned counsel for the applicant submits that entire allegation made against the applicant is totally false and baseless and admittedly victim is major and applicant and victim both were having love affair and when this fact was revealed to the mother of the informant then she lodged FIR of the present case.
5. He further submits that victim in her both the statements recorded under Sections 161 and 164 Cr.P.C. stated that applicant in a room of hotel forcibly made physical relationship with her but even from her both the statements it is reflected that she was having friendship with the applicant and she herself had gone

along with the applicant and it appears that on the instigation of her mother, i.e., the informant she in her both the statements twisted the story and stated that however she had gone along with applicant in the Hotel but in a room of the Hotel applicant made physical relationship with her against her wishes.

6. 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 16.6.2023.

7. Per contra, learned AGA opposed the prayer for bail and submits that victim in her both the statements recorded under Sections 161 and 164 Cr.P.C. stated that applicant against her wishes made physical relationship with her in a room of hotel but he could not dispute the fact that victim is a major girl and even from her both the statements at this stage it cannot be said that she was not the consenting party.

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

9. However, victim in her both the statements recorded under Sections 161 and 164 Cr.P.C. made allegation that applicant against her wishes made physical relationship with her in a room of hotel but from her both the statements her consent is reflecting as according to the victim herself she was having friendship with the applicant and she herself had gone along with him.

10. Further, victim admittedly is major girl aged about more than 18 years and applicant is not having any previous criminal history and he is in jail since 16.6.2023.

11. Therefore, considering the facts and circumstances of the case

discussed above, in my view, applicant is entitled to be released on bail.

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

13. Let the applicant-**Karan Chauhan** 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.

14. 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.

15. 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 :- 5.12.2023
SKM