

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50065 of 2023

Applicant :- Noor Alam

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

Counsel for Applicant :- Janardan Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Shri R. N. Sriastava, learned A.G.A. for the State-respondent apprise the Court that on 14.11.2023, notice has been served to the informant. Despite service of notice, none appeared on behalf of the informant to oppose this application for bail.

2. Heard Shri Janardan Yadav, learned counsel for the applicant and Shri R. N. Srivastava, learned A.G.A. for the State-respondent.

3. The instant application has been filed seeking release of the applicant on bail in Case Crime No.528 of 2023, under Sections 363, 342, 376(3) IPC, Sections 4(2) POCSO Act, 2012 & Sections 3(2)(V) S.C./S.T. Act, Police Station Jeeyanpur, District Azamgarh, during pendency of the trial in the court below.

4. FIR of the present case was lodged on 04.08.2023 against applicant and according to the FIR, informant i.e. victim of the case on 31.07.2023 when had gone to ease herself, applicant forcibly taken her in his house and kept her for two days and committed rape with her. It is further mentioned in the F.I.R. that age of the victim is about fourteen years.

5. Learned counsel for the applicant submits that on the basis of false allegation applicant has been made accused in the present

matter and story narrated by the victim in the F.I.R. as well as in her both the statements recorded under Sections 161 and 164 Cr.P.C. during investigation does not appear to be convincing.

6. He further submits that however as per the victim, applicant dragged her but her medical report does not support her version.

7. He further submits that only due to village party bandi, applicant has been made accused in the present matter.

8. He further submits that applicant is not having any criminal history and he is in jail in the present matter since 08.08.2023, therefore, he may be released on bail.

9. Per contra, learned AGA opposed the prayer for bail and submits that age of the victim is hardly fourteen years and in her both the statements recorded under Sections 161 and 164 Cr.P.C., she categorically stated that applicant committed rape with her and applicant failed to bring any good reason for his false implication and therefore, applicant should not be released on bail.

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

11. Considering the fact that victim is hardly fourteen years old and she made allegation of rape against applicant in her both the statements recorded under Sections 161 and 164 Cr.P.C. and applicant failed to bring any good reason for his false implication, in my view, applicant is not entitled to be released on bail.

12. Accordingly, without expressing any opinion on the merits of the case, the instant bail application filed by the applicant- **Noor Alam** is **rejected**.

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 :- 23.11.2023
Zafar