

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49858 of 2023

Applicant :- Mihirdeep @ Dipu

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

Counsel for Applicant :- Narendra Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Sri Imran Khan, learned AGA for the State apprised the Court that notice has been served upon the informant on 15.11.2023. Despite service of notice, none present on behalf of the informant.
2. Heard Sri Yatish Kumar Dwivedi, Advocate holding brief of Sri Narendra Kumar, learned counsel for the applicant and Sri Imran Khan, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 103 of 2023, under Sections 363, 366, 376 IPC and Section 3/4 POCSO Act, Police Station Garautha, District Jhansi during pendency of the trial.
4. FIR of the present case was lodged against applicant on the basis of suspicion that he enticed away the daughter of the informant aged about 17 years.
5. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and this fact is evident from the statements of the victim recorded during investigation. He further submits that victim in her both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. categorically stated that she herself had gone along with applicant and also performed marriage with him.
6. He further submits that even as per school record, victim at the time of incident was about 17 years old and during investigation her ossification test was not conducted. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 06.08.2023.

7. Per contra, learned AGA opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant. However, he pointed out that applicant is having criminal history of a case but fairly conceded that the case is of sections 325, 506 IPC.

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

9. However, applicant is having previous criminal history to his credit but as per information furnished by learned AGA that case was of Section 325, 506 IPC.

10. Further, even as per school record victim appears to be 17 years old and she in her both the statements recorded during investigation stated that she herself had gone along with applicant and also solemnized marriage with him. Further, applicant in the present matter is in jail since 06.08.2023.

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 - **Mihirdeep @ Dipu** 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 :- 7.12.2023

AK Pandey