

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49967 of 2023

Applicant :- Monu

Opposite Party :- State of U.P.

Counsel for Applicant :- Varchasva Dwivedi, Akarsh Dwivedi

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Akarsh Dwivedi, learned counsel for the applicant and Dr. S.B. Maurya, learned AGA-I for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 103 of 2023 (S.T. No. 181 of 2023), under Sections 376, 506 IPC, Police Station Aata, District Jalaun during pendency of the trial.

3. FIR of the present case was lodged on 06.06.2023 against applicant and according to the FIR informant is aged about 19 years and about seven months before applicant prepared her indecent video while she was taking bath and thereafter under threat to viral the video made physical relationship with her and since last seven months he was continuously sexually exploiting her.

4. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and actually victim, who is major girl, was having friendship and relationship with the applicant but subsequently some dispute arose between both of them thereafter FIR of the present case was lodged.

5. He further submits that even from the FIR and her both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. her consent is apparent. He further submits that there is allegation that applicant prepared the video of the victim but during investigation no such video of the victim could be recovered. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 08.06.2023.

6. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that victim is major girl and even from the record her consent is apparent.

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

8. However, there is allegation of sexual exploitation and rape against applicant in the FIR as well as in both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. but victim indisputably is major girl aged about more than 19 years and from the record prima facie it appears that she was consenting party.

9. Further, applicant is not having any criminal history and in the present matter he is in jail since 08.06.2023.

10. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

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

12. Let the applicant - **Monu** 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.

13. 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.

14. 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 :- 30.11.2023
AK Pandey