

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49782 of 2023

Applicant :- Arun Babu

Opposite Party :- State of U.P.

Counsel for Applicant :- Azhar Hussain, Byas Kumar Prasad

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard counsel for the applicant and Sri V.P. Tripathi, learned AGA for the State.
2. The instant bail application, under Section 439 Cr.P.C., has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 159 of 2023, under Sections 363 & 366 I.P.C., Police Station- Delhi Gate, District- Aligarh during pendency of the trial.
3. Counsel for the applicant contends that the applicant has been falsely implicated in the instant case. The victim in her statements under Sections 161 Cr.P.C. and 164 Cr.P.C. stated that she is aged sixteen years and had gone voluntarily with the applicant. There is no allegation of any indecent behaviour against the applicant. The victim refused to get herself medically examined. The applicant is in jail since 17.06.2023, having no criminal history. In case he is enlarged on bail, he will not misuse the said liberty.
4. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid facts from the record.
5. Having heard learned counsel for the parties and having perused the record this Court prima facie finds that the allegations made in the FIR by the informant against the applicant have not been supported by the victim in her statements under Sections 161 Cr.P.C. and 164 Cr.P.C. At this stage, there is no substantive evidence against the applicant. Further, the applicant has no criminal antecedents and has remained confined for almost six months and after submission of the charge-sheet there is no hope of early conclusion of trial, more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper with the evidence or delay the trial or intimidate the witness, without commenting on merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant, **Arun Babu** involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not temper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness; and,
- iii. the applicant shall appear on each and every date fixed by the trial court.

7. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 13.12.2023

Sachin Mishra