

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50034 of 2023

Applicant :- Aakash

Opposite Party :- State of U.P.

Counsel for Applicant :- Lavkush Kumar Bhatt

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Lavkush Kumar Bhatt, learned counsel for the applicant and Sri Manoj Kumar Singh, learned Brief Holder for the State.
2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 073 of 2023, under Sections 376 IPC, Police Station Amritpur, District Farrukhabad during pendency of the trial.
3. FIR of the present case was lodged on 12.10.2023 against applicant and two others and according to the FIR under the false promise of marriage, applicant made physical relationship with the informant and when informant conceived then he caused her miscarriage with the help of her mother and thereafter refused to perform marriage with her.
4. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and admittedly victim i.e. informant of the case is major girl and her consent is apparent from the record. He further submits that actually victim and applicant were in relationship but subsequently some dispute arose between both of them and thereafter FIR of the present case was lodged on the basis of false allegation of sexual exploitation.
5. He further submits that however as per allegation applicant caused miscarriage to the victim with the help of her mother but except the bald and verbal allegation, there is no evidence on record in this regard. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 14.10.2023.
6. Per contra, learned AGA opposed the prayer for bail but could

not dispute the fact that victim i.e. informant of the case is major girl and her consent is apparent from the record.

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

8. However, there is allegation of sexual exploitation against the applicant under false promise of marriage in the FIR as well as in both the statements of the victim recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. but admittedly victim is major girl and prima facie from the record, it appears that she was consenting party.

9. Further, however, there is allegation that mother of the applicant with the help of applicant caused miscarriage of the victim but except the bald and verbal allegation, there is no evidence on record in this regard.

10. Further, applicant is not having any criminal history and in the present matter he is in jail since 14.10.2023.

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 - **Aakash** 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 :- 30.11.2023

AK Pandey