

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49950 of 2023

Applicant :- Monu Arya

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

Counsel for Applicant :- Shashi Dhar Shukla

Counsel for Opposite Party :- G.A., Ramdeo Mani Tripathi

Hon'ble Sameer Jain,J.

1. Heard Sri Shashi Dhar Shukla, learned counsel for the applicant, Sri Ramdeo Mani Tripathi, learned counsel for the informant and Sri Jhamman Ram, learned AGA-I, for the State.

2. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.796 of 2023, under Sections 376, 354A and 506 IPC, Section 3/4 and 7/8 POCSO Act and Section 67 I.T.Act, Police Station Kotwali Khalilabad, District Sant Kabir Nagar during pendency of the trial.

3. FIR of the present case was lodged on 8.8.2023 against the applicant and according to the FIR, applicant after enticing the informant made physical relationship with her and also prepared her obscene videos and threatened the informant to viral the same. It is further mentioned in the FIR that applicant after taking the obscene videos of younger sister of the informant posted the same on social media.

4. Learned counsel for the applicant submits that entire allegation made against the applicant is totally false and baseless and FIR of the present case is based on vague facts and not even the date of alleged rape was mentioned in it.

5. He further submits that however, when the statement of the

victim, i.e., informant of the case was recorded under Section 161 Cr.P.C. then she stated that first time applicant sexually exploited her in the year 2020 and therefore, this fact clearly suggests that after about three years FIR of the present case was lodged.

6. He further submits that even from the alleged recovered photographs of younger sister of the informant, which has been annexed as Anneure-7 to the affidavit filed in support of the instant bail application, it reflects that these photographs are not obscene one.

7. He further submits that there is no cogent evidence on record on the basis of which at this stage it can be said that applicant has taken these photographs and posted the same on social media.

8. He further submits that informant, i.e., victim of the case at the time of incident was admittedly major and applicant is not having any previous criminal history and in the present matter he is in jail since 1.10.2023.

9. Per contra, learned AGA as well as learned counsel for the informant although opposed the prayer for bail but could not dispute the fact that FIR of the present case was lodged after three years and at the time of lodging the FIR, victim was major and she appears to be consenting party.

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

11. Considering the fact that FIR of the present case was lodged after three years and admittedly at the time of lodging the FIR victim was major and she appears to be consenting party and even alleged recovered photograph of her sister does not appear to be

obscene, 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-**Monu Arya** 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 :- 8.12.2023
SKM