

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50799 of 2023

Applicant :- Azeem

Opposite Party :- State of U.P.

Counsel for Applicant :- Arvind Kumar Srivastava, Akhilesh Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Akhilesh Kumar Yadav, 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.821 of 2023, under Sections 376, 342 IPC, Police Station Civil Lines, District Moradabad during pendency of the trial.
3. FIR of the present case was lodged on 27.09.2023 against applicant and others and according to the FIR since last one year applicant forcibly confined the victim and sexually exploited her and due to his sexual exploitation she also conceived and is having eight months pregnancy and was turned out by applicant from his home. It is further mentioned in the FIR that on 16.07.2023 compromise was executed between both the parties and applicant made assurance to perform marriage with her but he did not perform marriage with her. It is further mentioned in the FIR that victim i.e. informant of the case also delivered a female child of applicant.
4. Learned counsel for the applicant submitted that admittedly victim i.e. informant of the case is major lady and actually applicant and victim both were in live-in-relationship and during their consensual relationship informant also conceived and she also delivered a female child but in the meantime some dispute arose between both of them therefore, she lodged FIR of the present case.
5. He further submits that applicant still wants to live with the victim and wanted to perform marriage with her but victim i.e. informant of the case in anger lodged FIR of the present case. He further submits that even from the entire record consent of the victim is quite apparent. He further submits that applicant is not having any criminal history and in the present matter he is in jail

since 19.10.2023.

6. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact victim is major lady and her consent is also reflecting from the record.

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

8. Considering the fact that victim i.e. informant of the case is major lady and prima facie it appears that she was consenting party and applicant is not having any criminal history and in the present matter he is in jail since 19.10.2023, in my view, applicant is entitled to be released on bail.

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

10. Let the applicant - **Azeem** 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.

11. 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.

12. 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 :- 12.12.2023
AK Pandey