

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 59235 of 2022

Applicant :- Lalla Singh Alias Dharm Singh Alias Chhotu

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

Counsel for Applicant :- Kuldeep Johri, Dinesh Kumar Singh, P.K. Singh, Ram Krishna Yadav

Counsel for Opposite Party :- G.A., Pusp Raj Singh, R.U. Rinki Renu

Hon'ble Sameer Jain, J.

1. Heard Sri Dinesh Kumar Singh, learned counsel for the applicant, Sri Pusp Raj Singh, learned counsel for the informant, Ms. R.U. Rinki Renu, learned counsel appearing on behalf of High Court Legal Services and Sri Ghanshyam Mishra, learned brief holder for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 180 of 2022, under Sections 376-D, 363, 366, 328, 354, 504, 506 IPC & Section 5G/6 POCSO Act, Police Station- Kuthaund, District- Jalaun, during pendency of the trial in the court below.

3. FIR of the present case was lodged against the applicant and co-accused Rishi on 23.09.2022 under Section 354, 506 IPC and 7/8 POCSO Act and according to the FIR, applicant and co-accused both for last three months were continuously sexually exploiting the informant, who was studying in Class-11th and on 23.09.2022 they asked her, why she did not come to the school and threatened, if within one hour she will not arrive at Kudhaund then they will kidnap her. It is further mentioned in the FIR that age of the informant is 17 years.

4. Learned counsel for the applicant submitted that neither in the FIR nor in the statement of the victim recorded under Section 161 Cr.P.C. there was any allegation of rape against the applicant but when the statement of the victim was recovered under Section 164 Cr.P.C. then she started making allegation of rape coupled with the allegation that applicant also prepared her indecent videographs and posted the same on social media but during investigation, no such videographs of the victim could be recovered. He further

submitted that totally on the basis of false allegation, applicant has been made accused in the present matter.

5. He further submitted, although, applicant is having previous criminal history of section 376 IPC but after investigation involvement of the applicant was found false and final report has been submitted in that case. He further submitted that applicant is in jail since 02.10.2022 i.e. for more than a year.

6. Per contra, learned AGA as well as learned counsel for the informant and learned counsel appearing on behalf of High Court Legal Services although, opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

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

8. Considering the fact that applicant is in jail in the present matter for more than a year and although, FIR of the present case was lodged by the victim herself but she neither in the FIR nor in her statement recorded under Section 161 Cr.P.C. made any allegation of rape against the applicant and for the first time she made allegation of rape against the applicant in her statement recorded under Section 164 Cr.P.C., 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- **Lalla Singh Alias Dharm Singh Alias Chhotu** 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 :- 1.11.2023

KK Patel