

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50548 of 2023

Applicant :- Vijay Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Lokesh Kumar Dwivedi, Lavkush Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Sri Mool Chandra Mishra, Advocate, filed his power on behalf of the informant today in the Court, which is taken on record.

2. Heard Sri Lokesh Kumar Dwivedi, learned counsel for the applicant, Sri Mool Chandra Mishra, learned counsel for the informant and Sri Pradeep Kumar, learned AGA for the State-respondent.

3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 223 of 2023, under Sections 376, 504, 506, 120-B IPC, Police Station- Sikarara, District-Jaunpur, during pendency of the trial in the court below.

4. FIR of the present case was lodged against the applicant and others on 20.09.2023 and according to the FIR, applicant and informant both studied in a coaching centre and friendship was developed between both of them and informant used to sit on his motorcycle and her some photographs were taken by one friend of the applicant when informant was sitting on the motorcycle of the applicant and thereafter applicant and his family members did not perform marriage of the informant with him and on 22.05.2022 her marriage was solemnized with one Amit Kumar and under the pretext of videos of the applicant and victim, on 14.11.2022, applicant committed rape with her and due to rape committed by the applicant, informant conceived and she delivered a male child on 13.08.2023. It is further mentioned in the FIR that due to the act of the applicant, informant was turned out from her matrimonial home and applicant spoiled her entire life.

5. Learned counsel for the applicant submitted that on the basis of false allegation, FIR of the present case was lodged after 10

months and this fact itself shows that entire allegation leveled against the applicant is totally false. He further submitted that even from the FIR and both the statements of the victim recorded under Sections 161 Cr.P.C. and 164 Cr.P.C., it is apparent that she was major and was consenting party. He further submitted that victim in her statement recorded under Section 164 Cr.P.C., also stated that she stayed with the applicant since December, 2022 to July, 2023.

6. He further submitted that applicant is not having any criminal history and he is in jail since 19.10.2023.

7. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that however, victim is major girl but applicant spoiled her entire life and due to sexual exploitation of the applicant, she had to deliver a male child and applicant neither accepted the victim nor her child and therefore, considering the peculiar facts and circumstances of the case, applicant should not be released on bail.

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

9. However, from the FIR and from both the statements of the victim recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. it appears that even after marriage, due to sexual exploitation of the applicant, informant of the case conceived and she also delivered a male child but from the record, it also reflects that she was major and married and even in her statement recorded under Section 164 Cr.P.C. she categorically stated that she stayed alongwith the applicant since December, 2022 to July, 2023, therefore, from the record, it cannot be said that she was not the consenting party.

10. Further, applicant is not having any criminal history and he is in jail since 19.10.2023.

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- **Vijay Yadav** 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 :- 28.11.2023

KK Patel