

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50340 of 2023

Applicant :- Abhishek Tiwari @ Lalu

Opposite Party :- State of U.P.

Counsel for Applicant :- Sudarshan Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Sudarshan Singh, learned counsel for the applicant and Sri Rajeev Dhar Dwivedi, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 150 of 2023, under Sections 366, 376 IPC, Police Station- Sakaldeepa, District- Chandauli, during pendency of the trial in the court below.
3. FIR of the present case was lodged against applicant and one another under Section 366 IPC and according to the FIR, applicant under the false promise of marriage enticed away the daughter of the informant aged about 19 years.
4. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and victim in her statement recorded under Section 161 Cr.P.C. only stated that applicant has taken her under the false promise of marriage and did not make any allegation of rape but when her statement under Section 164 Cr.P.C. was recorded then she stated that applicant under the false promise of marriage sexually exploited her.
5. He further submitted that admittedly victim of the case is a major girl aged about 19 years and she herself had gone along with the applicant but thereafter some dispute arose between applicant and victim and she returned back to her home and thereafter she started making allegation against the applicant.
6. He further submitted that applicant is not having any criminal history and he is in jail since 27.09.2023.

7. Per contra, learned AGA although, opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.
8. I have heard learned counsel for the parties and perused the record of the case.
9. However, victim in her statement recorded under Section 164 Cr.P.C. stated that applicant under the false promise of marriage sexually exploited her but admittedly she is major girl aged about 19 years and in her statement recorded under Section 161 Cr.P.C. she did not make allegation of rape and sexual exploitation against the applicant.
10. Further, defence taken by the applicant cannot be completely ruled out at this stage considering the fact that victim of the case is major girl.
11. Further, applicant is not having any criminal history and he is in jail in the present matter since September, 2023.
12. Therefore, considering the facts and circumstances of the case discussed above, in my view applicant is entitled to be released on bail.
13. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.
14. Let the applicant- **Abhishek Tiwari @ Lalu** 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.
15. 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.

16. 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 :- 24.11.2023

KK Patel