

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50637 of 2023

Applicant :- Amit

Opposite Party :- State of U.P.

Counsel for Applicant :- Ram Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Shri Pradeep Kumar, Advocate holding brief of Shri Ram Kumar Yadav, learned counsel for the applicant and Shri Rajeev Dhar Dwivedi, learned A.G.A. for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.215 of 2023, under Sections 376(2)N IPC & Section 67 I.T. Act, Police Station Shishgarh, District Bareilly, during pendency of the trial in the court below.
3. FIR of the present case was lodged on 12.07.2023 against applicant and two unknown persons and according to the FIR, for last five years applicant was sexually exploiting the informant under the threat to viral her indecent videos and photographs. It is further mentioned in the FIR that marriage of the informant has already been performed and on 01.07.2023 applicant posted indecent videos and photographs of the informant to the mobile phone of her husband.
4. Learned counsel for the applicant submits that entire allegations made against applicant are totally false and baseless and on the basis of stale allegation of sexual exploitation of about five years old, applicant has been made accused in the present matter.

5. He further submits that victim is a major and married lady and there is no evidence that applicant is the person, who sent her indecent videos and photographs to the mobile phone of her husband.

6. He further submits that even if the allegations are accepted, applicant can become accused for offence under Section 67 I.T. Act in which, maximum punishment is of three years.

7. He further submits that applicant is not having any criminal history and he is in jail in the present matter since 14.07.2023.

8. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that on the basis of old allegation of rape and sexual exploitation of about five years old, applicant has been made accused in the present matter. He further could not dispute the fact that victim i.e. informant of the case is a major and married lady and further however during investigation, indecent videos and photographs of the informant were recovered but there is no evidence, which can show that these indecent videos and photographs were either sent by the applicant or recovered from the possession of the applicant.

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

10. However, from the records, it reflects that the alleged indecent videos and photographs of the informant were recovered during investigation from the mobile phone of her husband but there is no evidence, which can show that the applicant is the person, who sent the same on the mobile phone of the husband of the informant.

11. Further, informant i.e. victim of the case is a major and married lady and on the basis of stale allegation of sexual exploitation of about five years old, applicant has been made accused in the case of rape.

12. Further, applicant is not having any criminal history and he is in jail in the present matter since 14.07.2023.

13. Therefore, considering the facts and circumstances of the case, discussed above, in my view, applicant is not entitled to be released on bail.

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

15. Let the applicant- **Amit**, 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.

16. 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.

17. 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
Zafar