

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50662 of 2023

Applicant :- Virendra

Opposite Party :- State of U.P.

Counsel for Applicant :- Sonu Kumar Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri S.K. Tiwari, learned counsel for the applicant and Sri Shatruhan Yadav, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 583 of 2023, under Sections 376, 506 IPC, Police Station Sasnigate, District Aligarh during pendency of the trial.

3. FIR of the present case was lodged on 01.10.2023 against applicant and according to the FIR on 15.01.2023 after administering some intoxicated item applicant committed rape upon the victim and also prepared her obscene video and under threat to viral the same continuously sexually exploited her for last one and half months.

4. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and admittedly victim i.e. informant of the case is major and married lady and her relationship with her husband was not cordial and applicant is also a widower and after the death of his wife he came close to the informant but subsequently some dispute arose between both of them and thereafter she lodged FIR of the present case.

5. He further submits that even story narrated by the victim in the FIR as well as in her statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. appears to be quite improbable and no reliance can be placed on such version.

6. He further submits that as per prosecution case applicant sexually exploited the victim under threat to viral her obscene video but during investigation no such video was recovered. He

further submits that as per allegation applicant first time committed rape upon the victim on 15.08.2023 but FIR was lodged on 01.10.2023 i.e. after one and half months. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 05.10.2023.

7. Per contra, learned AGA 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, informant i.e. victim of the case in the FIR as well as in her both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. made allegation of rape and sexual exploitation against the applicant but admittedly victim i.e. informant of the case is major and married lady and FIR of the present case was lodged after one and half months from the date of first rape.

10. Further, as per informant under threat to viral her obscene video applicant for last one and half months was continuously sexually exploiting her but during investigation the obscene video of the victim could not be recovered.

11. Further, story narrated by the victim appears to be quite improbable and considering the fact that she is major and married lady, the defence taken by the applicant cannot be completely brushed aside at this stage.

12. Further, applicant is not having any criminal history and in the present matter he is in jail since 05.10.2023.

13. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is 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 - **Virendra** 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 :- 12.12.2023

AK Pandey