

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50909 of 2023

Applicant :- Ritesh Kumar Srivastava

Opposite Party :- State of U.P.

Counsel for Applicant :- Juned Alam

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Juned Alam, learned counsel for the applicant and Dr.S.B.Maurya, learned AGA-I, for the State.
3. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.264 of 2023, under Sections 376, 323,504 and 506 IPC, Police Station Tamkuhiraj, District Kushi Nagar during pendency of the trial.
4. FIR of the present case was lodged on 3.8.2023 against the applicant and according to the FIR, informant, i.e., victim of the case resided in the shop of the applicant and applicant under the false promise of marriage made physical relationship with her and when she conceived then he also caused her miscarriage. It is further mentioned in the FIR that subsequently applicant refused to perform marriage with the informant.
5. Learned counsel for the applicant submits that admittedly informant, i.e., victim is a major girl and even the story narrated by her in the FIR as well as in both her statements recorded under Sections 161 and 164 Cr.P.C. appears to be totally false and no reliance can be placed on such version.

6. He further submits that even from the record the consent of informant is quite apparent.

7. He further submits that actually informant, i.e., victim of the case was the employee in the shop of the applicant and, therefore, she resided there and some dispute arose between applicant and victim with regard to the payment and thereafter she lodged FIR of the present case.

8. He further submits that however, in the FIR and in the statements of the victim there is allegation that applicant also caused her miscarriage but except bald and verbal allegation there is no other evidence on record in this regard.

9. He further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 19.10.2023.

10. Per contra, learned AGA although opposed the prayer for bail but could not dispute the argument on facts advanced by the learned counsel for the applicant.

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

12. However, in the FIR as well as in both the statements of the victim, i.e., informant of the case there is allegation against the applicant of sexual exploitation under the false promise of marriage but admittedly the informant, i.e., victim of the case is a major girl and her consent even from the record is apparent.

13. Further, applicant is not having any previous criminal history and in the present matter he is in jail since 19.10.2023.

14. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

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

16. Let the applicant-**Ritesh Kumar Srivastava** 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.

17. 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.

18. 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 :- 2.12.2023
SKM