

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51735 of 2023

Applicant :- Golu@ Anand Yadav

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Jagadish Prasad Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Sri Vijay Singh, learned Advocate, filed his power today on behalf of the informant in Court, which is taken on record.
2. Heard Sri J.P.Yadav, learned counsel for the applicant, Sri Vijay Singh, learned counsel for the informant and Sri Kunwar Tejendra Bahadur, learned AGA, 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.336 of 2023, under Sections 363 and 376 IPC and Section 3/4 POCSO Act, Police Station Raunapar, District Azamgarh during pendency of the trial.
4. FIR of the present case was lodged against the applicant on 16.10.2023 under Section 363 IPC against unknown persons and according to the FIR, on 8.10.2023 at about 10.00 AM in the morning daughter of the informant aged about 14 years had gone to school but she did not return.
5. Learned counsel for the applicant submits that applicant was not named in the FIR but when statement of the victim was recorded under Section 161 Cr.P.C. then she disclosed the name of applicant and thereafter he was made accused in the present matter.

6. He further submits that however victim in her both the statements recorded under Sections 161 and 164 Cr.P.C. made allegation of rape against the applicant but story narrated by her does not appear to be convincing and it appears that she has falsely implicated the applicant in the present matter.

7. He further submits that that actually applicant worked along with the victim in her orchestra and due to some payment a dispute arose between informant and applicant and thereafter on the instigation of informant, victim made allegation of rape against the applicant.

8. He further submits, the fact that applicant is also worked in the orchestra, has also been admitted by the victim in her statement under Section 164 Cr.P.C.

9. He further submits that applicant is hardly 19 years old young boy and he is not having any previous criminal history and in the present matter he is in jail since 31.10.2023.

10. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that victim is hardly 15 years old girl and she in her both the statements recorded under Sections 161 and 164 Cr.P.C. made allegation of rape against the applicant.

11. They further submitted that as informant was not aware about whereabouts of the victim, therefore, he did not immediately lodged FIR of the present case and when victim was recovered then she disclosed that applicant confined her for almost two weeks and committed rape upon her and, therefore, considering the provisions of POCSO Act, applicant should not be released on

bail.

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

13. From the record it reflects that applicant is about 19 years old boy and on the other hand victim is about 15 years old girl.

14. Further, however, applicant in the entire bail application did not state that he was having any relationship with the victim rather he took a defence that as applicant worked in the orchestra of the victim and some dispute arose with regard to money between both of them and, therefore, he made accused in the present matter but even from the record the story narrated by the victim prima facie does not appear to be convincing to this Court.

15. Further, applicant is a young boy aged about 19 years and therefore, considering the tender age of applicant, in my view, applicant is entitled to be released on bail.

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

17. Let the applicant-**Golu @ Anand 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.

18. 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.

19. 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 :- 4.12.2023
SKM