

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51815 of 2023

Applicant :- Amit Bharti

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

Counsel for Applicant :- Atmaram Nadiwal, Dinesh Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Sri Amar Nath Vishwakarma, learned Brief Holder for the State submits that notice has been served upon the informant on 28.11.2023. Despite service of notice, none present on behalf of the informant.
2. Heard Sri Dinesh Kumar Yadav, learned counsel for the applicant and Sri Amar Nath Vishwakarma, learned Brief Holder for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 274 of 2023, under Sections 363, 376 IPC and Section 3/4 POCSO Act, Police Station Nichlaul, District Maharajganj during pendency of the trial.
4. FIR of the present case was lodged against applicant and according to the FIR applicant enticed away the daughter of the informant aged about 17 years.
5. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and this fact is evident from the statements of the victim recorded under Sections 161 Cr.P.C. and 164 Cr.P.C.
6. He further submits that even as per school record, victim was around 17 years 10 months old and during investigation her ossification test was not conducted and victim in her both the statements recorded during investigation categorically stated that she loved the applicant and she performed marriage with him.
7. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 31.10.2023.

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

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

10. Considering the fact that even as per school record, victim was around 18 years old and she in her both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. stated that she herself had gone along with applicant and performed marriage with him, in my view, applicant is entitled to be released on bail.

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

12. Let the applicant - **Amit Bharti** 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.

13. 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.

14. 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

AK Pandey