

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51993 of 2023

Applicant :- Shyam Lal

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

Counsel for Applicant :- Amit Krishna, Apurva Hajela

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Sri Imran Khan, learned AGA for the State apprised the Court that notice has been served upon the informant on 06.12.2023. Despite service of notice, none present on behalf of the informant.
2. Heard Sri Amit Krishna, learned counsel for the applicant and Sri Imran Khan, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 0289 of 2023, under Sections 376 Ka, Kha IPC and Section 5/6 POCSO Act, Police Station Barra, District South Commissionerate, Kanpur Nagar during pendency of the trial.
4. FIR of the present case was lodged on 07.08.2023 against applicant and according to the FIR applicant is aged about 75 years and he in the room after disrobing the three years old daughter of the son-in-law of the informant made sexual assault upon her.
5. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and actually applicant is landlord of the informant and informant for last eight months was not giving the rent and when applicant demanded the rent then in stead of giving the same he lodged FIR of the present case. He further submits that applicant is 75 years old and infirm person and it is hard to believe that he would commit such act with three years old girl.
6. He further submits that however medical report of the victim suggests that she was having vaginal swelling and her vagina was

found ruptured but as victim is hardly three years old, therefore, due to number of reasons she could sustain injuries in her vagina and even due to infection redness can be noted by the doctor.

7. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 08.08.2023.

8. Per contra, learned AGA opposed the prayer for bail and submitted that victim in her statement recorded under Section 164 Cr.P.C. before the Magistrate categorically stated that applicant was touching her vagina after removing her lower and her medical report also corroborates her version, therefore, applicant should not be released on bail.

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

10. However, from the record it reflects that applicant is 75 years old person and landlord of the informant but allegation leveled against him are quite serious and even victim, who is hardly aged about three years old girl stated in her statement recorded under Section 164 Cr.P.C. before the Magistrate that after removing her lower applicant touched her vagina and medical report of the victim shows that her vagina was found ruptured and redness and swelling were also present, therefore, I find force in the argument advanced by learned AGA, the prosecution story found supports from the medical report of the victim, therefore, I am not inclined to release the applicant on bail at this stage.

11. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **rejected** at this stage.

12. 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.

13. However, considering the age of the victim and applicant, trial court is directed to conclude the trial of the case within a period of six months from the date of production of certified copy of this order strictly as per provision of Section 35 POSCO Act and Section 309 Cr.P.C. on day-to-day basis without granting any unnecessary adjournments to either of the parties, if there is no legal impediment.

14. It will be open for the applicant to renew the prayer for bail after six months if in the meantime trial of the case is not concluded subject to the condition that applicant will fully cooperate in the trial of the case and no adjournment shall be taken on his behalf.

Order Date :- 12.12.2023

AK Pandey