

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 52168 of 2023

Applicant :- Brajlal

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

Counsel for Applicant :- Ajay Kumar Kashyap

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 26.11.2023. Despite service of notice, none present on behalf of the informant.

2. Heard Sri Ajay Kumar Kashyap, 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. 267 of 2023, under Sections 376 IPC and Section 3/4 POCSO Act, Police Station Meerganj, District Bareilly during pendency of the trial.

4. FIR of the present case was lodged against the applicant and according to the FIR applicant after taking the mentally retarded maternal grand daughter of the informant aged about 14 years committed rape upon her.

5. Learned counsel for the applicant submitted that applicant is 67 years old and infirm person and on the basis of false allegation, he has been made accused in the present matter. He further submits that actually informant wanted to grab the property of the applicant and only due to this reason he implicated the applicant in the present matter.

6. He further submits that however victim in her both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. stated that applicant committed rape upon her but story narrated by her appears to be improbable and her medical report does not corroborate the version of the victim.

7. He further submits that however informant in the FIR disclosed

the age of the victim as 14 years but victim is an illiterate girl and according to CMO concerned she was aged about 18 years. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 03.10.2023.

8. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is a matured and adult man aged about 65 years and after taking the victim he committed rape upon her and victim was hardly 16-18 years old and no good ground for his false implication could be brought by the applicant on record, 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. Considering the fact that applicant is a matured and adult man aged about 65 years old and victim is hardly 16-18 years old girl and as per allegation he committed rape upon her and he fails to bring any good reason for his false implication, in my view, applicant is not entitled to be released on bail.

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

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.

Order Date :- 6.12.2023
AK Pandey