

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53330 of 2023

Applicant :- Gaurav

Opposite Party :- State of U.P.

Counsel for Applicant :- Narayan Swaroop, Vinay Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Lalit Prakash, Advocate, holding brief of Sri Narayan Swaroop, learned counsel for the applicant and Sri Jhaman Ram, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 555 of 2023, under Section 376 IPC, Police Station- Nai Mandi, District- Muzaffar Nagar, during pendency of the trial in the court below.
3. FIR of the present case was lodged on 12.10.2023 against applicant and according to the FIR, applicant sexually exploited the informant, who is aged about 23 years, under the false promise of marriage and subsequently he refused to perform marriage with her.
4. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and admittedly victim is 23 years' old and from the record, it is apparent that she was consenting party. He further submitted that actually victim and applicant both were in consensual relationship but subsequently some dispute arose between both of them and thereafter informant lodged the FIR.
5. He further submitted that applicant is not having any criminal history and he is in jail since 13.10.2023.
6. Per contra, learned AGA although, opposed the prayer for bail but could not dispute the fact that informant i.e. victim of the case is major lady and from the record, it reflects that she was consenting party.
7. I have heard learned counsel for the parties and perused the

record of the case.

8. Considering the fact that informant i.e. victim of the case is major lady and from the record her consent reflects and applicant is not having any criminal history, in my view applicant is entitled to be released on bail.

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

10. Let the applicant- **Gaurav** 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.

11. 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.

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 :- 12.12.2023

KK Patel