

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53419 of 2023

Applicant :- Vikram Yadav

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

Counsel for Applicant :- Dharm Vir Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Dr. S. B. Maurya, learned AGA-I apprised the Court that on 5.12.2023 notice has been served to the informant. Despite service of notice, none appeared on behalf of the informant.
2. Heard Sri Dharm Vir Singh, learned counsel for the applicant and Dr. S. B. Maurya, learned AGA-I for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 538 of 2022, under Sections 363, 366, 376 IPC and 3/4 POCSO Act, Police Station Kotwali, District Etah, during pendency of the trial in the court below.
4. FIR of the present case was lodged against the applicant and according to the FIR, applicant enticed away the daughter of the informant in her absence.
5. Learned counsel for the applicant submitted that applicant is innocent and on the basis of false allegation, he has been made accused in the present matter.
6. He further submitted that however, informant and victim both made allegations against the applicant during investigation but when both appeared before the trial court as PW-1 and PW-2 then they did not support the prosecution case.
7. He further submitted that informant i.e. mother of the victim however supported the version of the prosecution in her examination in chief but during cross-examination, she did not support the prosecution case.
8. He further submitted that however victim during trial did not support the prosecution case since beginning and she was declared hostile.
9. He further submitted that statements of both the witnesses recorded by the trial court have been annexed to the instant bail application.
10. He further submitted that applicant is having no previous criminal history and he is in jail in the present matter since

17.10.2022 i.e. for last more than a year.

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

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

13. Considering the fact that during trial victim has been declared hostile and even her mother i.e. informant did not support the prosecution case during her cross-examination and applicant has no previous criminal history and he is in jail in the present matter since October, 2022 i.e. for last more than a year, in my view, applicant is entitled to be released on bail.

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

15. Let the applicant-**Vikram 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.

16. 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.

17. 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 :- 13.12.2023

Ankita