

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 342 of 2023

Applicant :- Golu @ Ravi

Opposite Party :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home And 3 Others

Counsel for Applicant :- Alok Kumar Srivastava, Anoop Chandra, Mansi Gupta

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Learned AGA has placed before this Court a communication submitted by the Police Station Tandiyawan, District Hardoi of date 19.12.2022 with regard to the service on opposite party no.2 and the same is taken on record, however, the opposite party no.2 is not represented.

2. Heard Ms. Mansi Gupta, learned counsel for the accused/applicant as well as learned A.G.A. for the State and perused the record.

3. This bail application has been moved by the accused/applicant- **Golu @ Ravi** for grant of bail, in Case Crime No. 145/2022, under Sections 363, 366, 376 I.P.C., under Section 5J(2)/6 POCSO Act, Police Station Tandiyawn, District Hardoi during trial.

4. Learned counsel for the accused-applicant while pressing the bail application submits that the accused-applicant has falsely been implicated in this case. The First Information Report has been lodged on 22.4.2022 by the mother of the prosecutrix stating therein that on 14.4.2022, they arrived from Ludhiyana and when they were at Tandiyawan Chauraha her daughter (Prosecutrix) disappeared and thereafter she could not be traced and it appears that she has been enticed away by the applicant with the help of other named accused persons. The prosecutrix was recovered on 25.5.2022 and her medical examination was performed, however, no infirmity or any injury etc. has been found on her person.

5. Highlighting the above facts, it is vehemently submitted that the name of the applicant has surfaced in the First Information Report only on the basis of suspicion, however, the prosecutrix has not been recovered from the custody of the applicant and in

her statement recorded under Section 161 Cr.P.C. the prosecutrix has stated her age to be of 17 years and also that she had accompanied the applicant to Delhi and when she came to know about lodging of the FIR she returned back. In her statement recorded under Section 164 Cr.P.C. after six days of recording of her statement under Section 161 Cr.P.C., the prosecutrix has improved the story as narrated in her statement recorded under Section 161 Cr.P.C. and stated that she was kidnapped from Tandiyawan Chauraha by co-accused Pappu and Satish and they left her at Hardoi Railway Station where the applicant was present and thereafter they had gone to Delhi where she was sexually assaulted, however, one day she found an opportunity and fled away.

6. It is vehemently submitted that the story as narrated by the victim in her statement recorded under Section 164 Cr.P.C. could not be believed, as the same is highly improbable. The prosecutrix has travelled with the applicant from Hardoi to Delhi and had also remained there for some days and she has not raised any alarm when she was accompanying the applicant from Hardoi to Delhi and thus she was a consenting party and though as per her educational credentials her age was about 17 years and as per radiology her age has been assessed as 19 years but she was having sufficient intellect to understand the nature of the act and also about her welfare.

7. It is also submitted that the applicant is in jail in this case since 27.08.2022 and he is not having any criminal antecedent. Charge sheet in this case has already been submitted and there is no apprehension that the accused-applicant after release on bail, may flee from the process of law or may otherwise misuse the liberty.

8. Learned A.G.A., however, opposes the prayer for bail but could not dispute the other factual submissions made by the learned counsel for the accused-applicant.

9. Having heard learned counsel for the parties and having perused the record, it is reflected that the age of the prosecutrix has been assessed as per her educational credentials about 17 years and her radiological age is assessed as 19 years, though she was minor at the relevant time but of age where she can understand her welfare. Various submissions have been raised by learned counsel for the applicant in order to show that the prosecutrix was a consenting party as she did not raise any alarm while accompanying the applicant from Hardoi to Delhi and also remained there (Delhi) for quite some time. No significant finding has been found in the medical report of the prosecutrix. The applicant is in jail in this case 27.08.2022 and

he is not having any criminal history. His presence may be secured before the trial court by placing adequate conditions.

10. Keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, submissions of the learned counsel for the parties and without expressing any opinion on the merits and demerits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is **allowed**.

11. Let the applicant- **Golu @ Ravi** involved in the aforesaid case be released on bail on furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.

(ii) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(iii) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

12. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

13. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

14. Observations made herein-above are only for the purpose of disposal of bail application and the same shall not have any bearing on the trial of the case.

Order Date :- 17.10.2023

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