

Court No. - 29

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 996 of 2023

Applicant :- Munnalal

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko,

Counsel for Applicant :- Surya Prakash, Abhishek Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Sadhna Rani (Thakur), J.

Heard learned Counsel for the applicant as well as learned A.G.A. and perused the record.

The accused- applicant is involved in Case Crime No.33 of 2022, under Sections 363, 341, 506 I.P.C., Police Station Bheera, District- Lakhimpur Kheri.

It is argued by the learned counsel for the applicant that there are material contradictions in the statements of the victim under sections 161 and 164 Cr.P.C. The gun which is introduced in the statement of the victim u/s 164 Cr.P.C. has not been shown to be recovered from the possession of the applicant. In the recovery memo, the recovery is shown dated 4.7.2022 at 23.56 hours while as per the statements of the victim, both under sections 161 and 164 Cr.P.C. she was recovered by the police along with the applicant on 3.7.2022 itself. Thus, it is clear that no incident took place. As the applicant was doing labour works in the house of the first informant, on demand of his due payment, he has been falsely implicated. The applicant is languishing in jail since 4.7.2022

Learned A.G.A. opposed the prayer for bail of the applicant and submitted that the victim is a minor girl, her consent has no significance in the eyes of law. In her statements u/s 161 and 164 Cr.P.C. both, the victim has supported the prosecution version that she was taken away at the gun point by the applicant. The victim was not permitted to talk with her father. When they (victim and applicant) were waiting for a bus, the police apprehended them.

From the perusal of the record, it is found that as per the FIR, there is allegation that 15 years old minor daughter of the first informant was enticed away by the applicant. Later on she was recovered with the present applicant by the police. In the statements of the victim under sections 161 and 164 Cr.P.C.

both, it is said that she was taken away by the present applicant and when they were waiting for a bus, they were apprehended by the police which shows that except the allegation of taking away the minor girl from the custody of her father by the applicant, there is no other allegation against the applicant. Regarding her age, in her statements, she has stated that she has passed X standard but the certificate in this regard has not been placed before the court to confirm the age of the victim. The applicant is languishing in jail since 4.7.2023.

Perusing the record, considering the facts and circumstances of the case, the nature of allegations, arguments advanced by the learned counsel for the parties and without expressing any opinion on the merit of the case, I find it to be a case of bail.

The bail application is allowed.

Let the applicant Munnalal who is involved in aforesaid crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions.

1. The applicant will attend and co-operate the trial proceedings pending before the court concerned on the dates fixed after release.
2. He will not tamper with the witnesses.
3. He will not indulge in any illegal activities during the bail period.

The identity, status and residential proof of sureties will be verified by the court concerned and in case of breach of any of the above conditions, the trial court shall be at liberty to cancel the bail and send the applicant to prison.

It is clarified that the observations, if any, made in this order are strictly confined to the disposal of this bail application and must not be construed to have any reflection on the ultimate merits of the case.

Order Date :- 29.11.2023

Gss