

Court No. - 29

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1198 of 2023

Applicant :- Anoop

Opposite Party :- State Of U.P. Thru.Addl. Chief Secy. Home And 3 Others

Counsel for Applicant :- Jayveer Rajput

Counsel for Opposite Party :- G.A.,Virendra Kumar Shukla

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

1. Heard learned Counsel for the applicant as well as learned A.G.A. and perused the record. No one has put in appearance on behalf of the opposite party no. 2 though the name of Shri Virendra Kumar Shukla as counsel for opposite party no. 2 appears in the cause list.

2. The accused- applicant is involved in Case Crime No. 257 of 2022, under Sections 363, 366, 504, 506 & 507 IPC and Section 7/8 of the Protection of Children from Sexual Offences Act, 2012, Police Station Bangarmau, District- Unnao.

3. It is argued by learned counsel for applicant that there is allegation in the FIR against the applicant of enticing away the minor daughter of first informant on 14.06.2022. The FIR has been lodged on 20.06.2022. The victim is said to have been recovered on 21.06.2022. As per the date of birth disclosed by the first informant 01.01.2008 as such, the victim was about 14 years, 5 months and 13 days old on the date of incident but as per medical report, the victim was about 17 years of age and in the previous case initiated on behalf of the same victim, the age of the victim was found 19 years. Both these medical reports are appended to the paper book. Though in her statement under Sections 161 and 164 Cr.P.C., in the present case, the victim has supported the prosecution version and has also alleged

committal of rape by the present applicant, but charge sheet has not been filed against the present applicant under Section 376 IPC. The victim, as per her statement on record, had made an allegation against a lady constable that she thrashed her for not implicating the applicant in the present case. The statement of that lady constable, is also on record, that when the victim was being taken for her statement under Section 164 Cr.P.C., she made cuts on her wrist and falsely implicated the mother of the applicant causing injuries on her wrist. In her statement under Section 161 Cr.P.C. in the previous case, she had admitted that she had love affairs with the applicant and she eloped with him by her own sweet will. The independent witnesses Sushila and Munni have also supported the version of the applicant that the applicant had not enticed away the victim on 14.06.2022. The applicant is languishing in jail since 26.07.2022 and prayer for bail is made.

4. Learned A.G.A. opposed the prayer for the bail of the applicant and has submitted that as per her date of birth 1.1.2008, the victim was about 14 years, 5 months and 13 days old on the date of incident, so her consent is of no significance.

5. From perusal of the record it is found that previously regarding allegations dated 07.07.2020 a first information report was lodged on behalf of the victim that she was enticed away by the present applicant and rape was committed upon her. In this regard Case Crime No. 250 of 2022 under Section 376 IPC and Section 3/4 of the Protection of Children from Sexual Offences Act, 2012 was registered against the applicant. On 24.07.2020, the alleged victim was given in the custody of CWC. The applicant is said to have been pressuring the prosecution witnesses for compromise in the above mentioned case and was giving threat that otherwise he would cause the death of whole family of the first informant and in the

continuation of this harassment/ threats on 14.06.2022 at 3:00 p.m., the applicant is said to have eloped with the victim and when family members of the victim went to the house of the first informant and complained the matter, the family members of the victim are said to have been abused and given threats of life.

6. Though oral date of birth of victim is disclosed to be 01.01.2008 but in the medical report in the present case also, the age of the victim was found to be 17 years. As per record, the victim and the applicant are found having love affairs. Previously also the victim is said to have eloped with the applicant and was said to have stayed with the boy for a couple of days and now again she is said to have eloped with the boy on 14.06.2022 and said to have come back on 21.06.2022. Though there was an allegation that she was taken to the house of the applicant and there she was assaulted by the mother of the applicant but as per the statement of the lady constable on record, when the victim was taken for statement under Section 164 Cr.P.C., she herself made some cut injuries on her hand.

7. At this time of dictating the order, Shri Virendra Kumar Shukla, learned counsel for first informant appeared.

8. 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.

9. The bail application is allowed.

10. Let the applicant - Anoop, 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.

11. 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 the 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 :- 7.12.2023

Virendra