

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 3092 of 2023

Applicant :- Sohit Gautom

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

Counsel for Applicant :- Anil Kumar Singh

Counsel for Opposite Party :- G.A.,Dr. Shailendra Sharma,Shitesh Jha

Hon'ble Brij Raj Singh,J.

1. Case called out. None is present before this Court on behalf of complainant.
2. Supplementary affidavit filed by learned counsel for applicant is taken on record.
3. Heard Shri Anil Kumar Singh, learned counsel for the accused-applicant as well as Ms. Priyanka Pandey, learned A.G.A. for the State and perused the record.
4. This bail application has been filed seeking release of the accused/applicant **Sohit Gautom** on bail, who is involved in Case Crime No. 438 of 2022, under Sections 363, 366, 376-D I.P.C. & 3/4 POCSO Act, Police Station Pasgawan, District Lakhimpur Kheri.
5. Learned counsel for the applicant has submitted that First Information Report has been lodged by the father of prosecutrix mentioning therein that his minor daughter has been enticed away by the co-accused Sonu, thereafter, the prosecutrix was recovered and her statement under Section 164 Cr.P.C was recorded wherein, she has stated that she was in love with co-accused Sonu and on his call, she had gone to Panai Chauraha to meet him, but when she reached to the place of occurrence as mentioned by Sonu, she found that he was not present there and the applicant and co-accused Puneet were present who made her to sniff something due to which she became unconscious and after she gained consciousness, she found that she was naked and there was pain in her private part. Learned counsel for applicant further submitted that the applicant has been falsely implicated in the present case for the reason that the aunt of the applicant is gram pradhan and the father of prosecutrix is supporter of opponent, who was defeated in the election of gram pradhani.
6. Learned counsel for applicant further submitted that recovery memo indicates that the prosecutrix was found along with the applicant. He further stated that there is no

criminal history against the applicant and he is languishing in jail since 27.11.2022.

7. Learned A.G.A opposed the prayer for grant of bail and has submitted that the statement of prosecutrix recorded under Section 164 Cr.P.C goes to indicate that it is a case of rape and the prosecutrix is minor aged about 17 years and she has levelled allegation of rape in clear terms, therefore, bail of the applicant is liable to be rejected.

8. Considering the facts and circumstances of the case, perusing the record and also considering the nature of allegations, arguments advanced by the learned counsel for the parties, particularly the statement of prosecutrix recorded under Section 164 Cr.P.C, which clearly indicates that the applicant and co-accused made her to sniff some intoxicating substance due to which she became unconscious and thereafter she was unclothed by the applicant and co-accused and rape was committed with her, the prosecutrix has admitted that she got pain in her private part, which in itself indicates that rape was committed with her and there is no reason to disbelieve the prosecution version, I do not find it to be a fit case for grant of bail.

9. The bail application of the accused/applicant **Sohit Gautom** is hereby rejected. The Trial Court would conclude the trial within six months without being influenced by the observations made by this Court.

Order Date :- 6.12.2023
DiVYa/Rajneesh