

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 4511 of 2023

Applicant :- Ajay Kumar @ Kallu Kori

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

Counsel for Applicant :- Rana Pratap Singh, Sonal Singh

Counsel for Opposite Party :- G.A., Diwakar Singh Gautam, Rajeiu Kumar Tripathi

Hon'ble Brij Raj Singh, J.

1. Heard Shri Rana Pratap Singh, learned counsel for the accused-applicant as well as Shri Akhilesh Kumar Srivastava, learned A.G.A. for the State and perused the record.

2. This bail application has been filed seeking release of the accused/applicant **Ajay Kumar @ Kallu Kori** on bail, who is involved in Case Crime No. 71 of 2022, under Sections 363, 376, 344, 506 I.P.C. & 5(th)/6 POCSO Act, Police Station Kotwali Mankapur, District Gonda.

3. Learned counsel for the applicant has submitted that the First Information Report has been lodged by the father of prosecutrix. As per version of First Information Report, the prosecutrix was enticed away by the applicant on 18.02.2022, but the F.I.R was lodged on 16.03.2022, which is much belated. It is further submitted that the statement of prosecutrix under Section 164 Cr.P.C has been recorded on 04.04.2022, which is also much belated. He further submitted that delay in lodging F.I.R indicates that false allegation has been levelled against the applicant and at the most, it is a case of consent and the medical report is also not supporting the prosecution case. He further stated that there is no criminal history against the applicant and he is languishing in jail since 22.04.2022.

4. Learned A.G.A. opposed the prayer for grant of bail and has submitted that in the First Information Report, the father of prosecutrix has mentioned that his daughter went missing on 18.02.2022 and he searched her many days but could not find her. However, on 11.03.2022, he got information that the applicant, who is his *pattidar*, had enticed away his daughter and made her captive in a room. Thereafter, he reached to place of incident and from there, the daughter of the complainant was recovered. The prosecutrix told the complainant that on 18.02.2022, her grandmother had scolded her that is why she had left her house and was sitting beside the canal, where the applicant met her and he threatened her that her family members would beat her, therefore, he convinced her to go

along with him. Learned counsel for applicant further submitted that the statement of prosecutrix was recorded under Section 164 Cr.P.C, wherein she has specifically levelled allegation that she was made captive in a room for 21 days and the applicant committed rape with her. After 21 days, the prosecutrix somehow escaped and left the place of occurrence. Learned A.G.A for the State further submitted that the version of First Information Report as well as statement of prosecutrix under Section 164 Cr.P.C are intact and the prosecutrix is 16 years of age and is minor, as per school certificate and it is not a case of consent. Since the applicant has committed a heinous offence therefore, he does not deserve mercy of the Court thus, the bail application of the applicant is liable to be rejected.

5. 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, the argument that the statement of prosecutrix under Section 164 Cr.P.C indicates that the applicant committed rape with the prosecutrix, the argument that the applicant made prosecutrix captive in a room for 21 days, the argument that the prosecution case as set up in the First Information Report as well as the statement of prosecutrix under Section 164 Cr.P.C are in corroboration, the argument that at the time of incident, the prosecutrix was minor, therefore, I do not find it to be a fit case for grant of bail.

6. The bail application of the accused/applicant Ajay Kumar @ Kallu Kori is hereby **rejected**.

Order Date :- 6.12.2023
DiVYa/Rajneesh