

Court No. - 8

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 5039 of 2023

Applicant :- Vijay Kumar Rajbhar Alias Kariya

Opposite Party :- State Of U.P. Thru. The Prin. Secy. Home Deptt. Civil Sectt. Lko, And 3 Others

Counsel for Applicant :- Santosh Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh,J.

1. Heard learned counsel for the accused-applicant as well as Sri Bhanu Pratap Singh, learned A.G.A. and perused the record.
2. This is the second bail application. First bail application got rejected by this Court vide order dated 13.9.2022 passed in Criminal Mic. Bail Application No.2142 of 2019.
3. The present application under Section 439 Cr.P.C. has been filed seeking bail in Case Crime No.104 of 2018, under Sections 376(2) (Cha), 376-D IPC and Section 3/4 POCSO Act, Police Station Ahirauli, District Ambedkar Nagar.
4. This Court while rejecting the first bail application of the accused-applicant, passed the following order:-

“1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

2. The present bail application under Section 439 Cr.P.C. has been filed by the applicant seeking bail in FIR No.104 of 2018, under Sections 376(2) Cha, 376D IPC, 3/4 POCSO Act, Police Station Ahirauli, Ambedkar Nagar.

3. The prosecutrix was 10 years of age at the time of incident. She came home bleeding profusely. The prosecutrix in her statement had named the accused-applicant. Medical evidence also fully supports the prosecution case. The prosecutrix has identified the accused-applicant as perpetrators of crime.

4. Considering the facts and circumstances of the case, tender age of the prosecutrix and medical evidence available on record, involvement of the accused-applicant in the commission of the offence, this Court does not consider it to be a fit case for enlarging the accused-applicant on bail at this stage. This bail application is thus, rejected.”

5. From the report submitted by the learned Additional District and Sessions Judge (POCSO-I), Ambedkar Nagar, it appears that eight prosecution witnesses have already been examined. There is no changed circumstance, which warrant this Court to enlarge the accused-applicant on bail.

6. Second application is accordingly *rejected*. However, the trial court is directed to expedite the trial proceedings and conclude the same within a period of six months as the accused-applicant has been in jail since 24.6.2018.

Order Date :- 14.7.2023

Rao/-