

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 9540 of 2022

Applicant :- Tulsi

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

Counsel for Applicant :- Daya Shankar Yadav, Ravi Kumar Verma

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Ravi Kumar Verma, learned counsel for the applicant, Sri Manish Kumar Pandey, the learned A.G.A.-I for the State and perused the records.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.88 of 2022, under Section 354(B) I.P.C. and Section 9 (U)/10 of Protection of Children from Sexual Offences Act, 2012, registered at Police Station Sujauli, District Bahraich.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 02.07.2022 alleging that the applicant had molested the informant's daughter aged about 10 years at 12.00 noon on 28.06.2022. She ran towards a passerby requesting him to save her and there upon the applicant ran away. The passerby dropped the victim at some distance. It is stated that upon reaching home the victim narrated the entire incident to her mother.

4. In the statement of the victim recorded under Section 161 Cr.P.C. she has stated that the applicant tried to take her towards a jungle and on the way he disrobed her. She escaped and a person met her on the way. In her statement recorded under

Section 164 Cr.P.C. she has stated the time of incident to be 3.00 p.m. and in this statement she mentioned the name of the person who had saved her as Deshraj.

5. In the affidavit filed in support of bail application it has been stated that the applicant is a 28 years old innocent person, he has been falsely implicated in the present case and he has no criminal history.

6. The learned A.G.A. has opposed the prayer for bail but he could not dispute the aforesaid aspects of the matter.

7. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the incident allegedly took place on 28.06.2022, whereas the F.I.R. has been lodged on 02.07.2023 and there is no explanation for the delay; that although the F.I.R. claims that the victim had told about the incident to her mother on the same day; that the time of incident mentioned in her statement recorded under Section 161 Cr.P.C. is 12.00 noon, whereas in her statement recorded under Section 164 Cr.P.C. it is 3.00 p.m. and the F.I.R. and the statement recorded under Section 161 Cr.P.C. mention that the victim was saved by an unknown passerby whereas in the statement of the victim under Section 164 Cr.P.C. that person has been named and the applicant submitted that the person so named is a relative and neighbour of the informant; that the applicant has no previous criminal history and he is languishing in jail since 03.07.2022 and without making any observation, which may affect the merits of the case, I am of the view that the aforesaid facts are sufficient for making out a case for enlargement of the applicant on bail in the aforesaid crime.

8. Accordingly, this bail application stands **allowed**.

9. Let the **applicant-Tulsi** be released on bail in the aforesaid

case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of magistrate/court concerned, subject to following conditions:-

- (i) the applicant shall not tamper with the prosecution evidence;
- (ii) the applicant shall not pressurize the prosecution witnesses;
- (iii) the applicant shall appear on each and every date fixed by the trial court.

(Subhash Vidyarthi, J.)

Order Date :- 2.12.2023
Ram.