

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10284 of 2022

Applicant :- Akhand Pratap Singh

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home And 4 Others

Counsel for Applicant :- Ravindra Nath Pandey, Amit Chaudhary, Anand Pratap Singh, Ravi Kant Shukla, Shubham, Siddharth Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard Shri Amit Chaudhary, learned counsel for the accused/applicant as well as learned A.G.A. for the State and perused the record.
2. This bail application has been moved by the accused/applicant- **Akhand Pratap Singh** for grant of bail, in Case Crime No. 175 of 2022, under Sections 323, 376, 506 IPC, Sections 5/6 of POCSO Act and Section 3(2)5 of S.C./S.T. Act, Police Station Krishna Nagar, District Lucknow, during trial.
3. Learned counsel for the accused-applicant while pressing the bail application submits that the accused-applicant has falsely been implicated in the instant case and he has not committed any offence as claimed by the prosecution.
4. It is further submitted that the story as cooked up by the informant/complainant as well as her daughter (prosecutrix/victim) is patently false, absurd and could not be believed. Elaborating further, it is submitted that the prosecutrix/victim is stated to have resided with the applicant for the last two years from before lodging of the F.I.R. which could not be believed by any prudent person that a mother would allow her minor child to reside with a boy without the consent of the prosecutrix/victim.
5. It is further submitted that the prosecutrix/victim has travelled to Punjab with the applicant and this evidently shows that the prosecutrix/victim was a consenting party.
6. It is further submitted that date of birth of the prosecutrix/victim relied on by the prosecution as 19.9.2006, may not be deemed conclusive as it has been admitted by the

Doctor, who has been examined before the trial court, that after examining the X-ray reports of the prosecutrix/victim, her age may be of 17-18 years and thus, the prosecutrix/victim was major at the date and time of the incident.

7. It is also submitted that the statements of the prosecutrix/victim recorded under Sections 161 & 164 CrPC may not be taken as truth having regard to inherent weaknesses.

8. It is further submitted that the applicant is in jail in this case since 26.4.2022 and he is not having any criminal antecedents. Charge sheet in the matter has already been filed and there is no apprehension that the accused-applicant after release on bail, may flee from the process of law or may otherwise misuse the liberty. Learned counsel for the applicant has also relied on the law laid down by the Hon'ble Supreme Court in ***Sadashiv Ramrao Hadbe vs. State of Maharashtra and another, [(2006) 10 SCC 92]***.

9. Learned A.G.A., on the other hand, submits that the applicant has committed an heinous offence with a girl of 15 years for the last two years from before lodging of the FIR and thus, he has sexually exploited an innocent poor girl.

10. It is further submitted that in pursuance of the order passed by this Court, the report of the DNA examination has been obtained from the Forensic Lab and the samples, which were taken from the applicant and foetus as well as from the victim, have been found to be of the same origin and the parents of the foetus have been determined as the applicant and the victim. Therefore, having regard to the DNA report submitted by the Forensic Lab, there cannot be two views with regard to the fact that the applicant has sexually exploited the victim who was of very tender age. Thus, the applicant is not entitled to be released on bail.

11. Having heard learned counsel for the parties and having perused the record, it is reflected that the age of the prosecutrix/victim at the date and time of the incident was about 15 years, 7 months and 3 days, as per her date of birth recorded in school records. The Doctor whose statement has been recorded before the trial court after seeing the X-ray reports of the prosecutrix/victim has assessed her age between 17-18 years. The law with regard to the assessment of the age on the basis of radiological process/ossification test is almost settled and the age determined/assessed through ossification test may be variable by two years either side and thus, the same is not conclusive in itself. The date of birth of the prosecutrix/victim is shown as 19.9.2006, by which she comes about 15 years, 7

months and 3 days. The DNA report with regard to the samples collected from the applicant, prosecutrix/victim and foetus which she was carrying has matched and it has been ascertained that the applicant and the prosecutrix/victim are the biological parents of the foetus. At the time of the medical examination, the prosecutrix/victim was found pregnant. Thus, having regard to all the reasons mentioned herein before, I do not find any ground on the basis of which facility of bail may be extended to the applicant, more so when the trial is at the concluding stage.

12. In result, the instant bail application moved on behalf of the applicant is ***rejected***.

13. However, the trial court is directed to conclude the trial expeditiously without granting unnecessary adjournments to either parties, if possible, within next six months.

Order Date :- 12.12.2023

Shravan