

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10833 of 2023

Applicant :- Bindu

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

Counsel for Applicant :- Prem Kumar Singh

Counsel for Opposite Party :- G.A.,Bhanu Pratap Singh,Prashant Vikram Singh

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Prem Kumar Singh, the learned counsel for the applicant, Sri Manish Kumar Pandey, the learned A.G.A.-I for the State as well as Sri Jalaj Kumar Gupta, the learned counsel for the informant and perused the record.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 140 of 2023, under Sections 363, 366, 370 I.P.C., registered at Police Station Tulsipur, District Balrampur.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 19.05.2023, alleging that the informant's grand daughter aged about 14 years had gone to attend the call of nature in the night of 17.05.2023, but she did not come back.

4. In the statement of the informant recorded under Section 161 Cr.P.C. she stated that upon making inquiries she came to know that her grand daughter had gone to Harraiya Tiraha at about 7.00 p.m. on 17.05.2023 from where she was kidnapped by three persons namely Kripa Ram, Bindu (the applicant) and Peshkar and they had taken her to Nepal and had sold her away.

5. In the statement of the victim recorded under Section 161 Cr.P.C., she has stated that the aforesaid three named persons had kidnapped her from Itwa chauraha while she was returning after grazing her cattle at about 7.00 p.m. She was taken to Nepal and got forcibly married to a 40 years old man. She somehow escaped and came back. She stated that no physical relations were made with her.

6. The medico legal examination report of the victim mentions no mark of injury on any part of her body. In the statement of the victim recorded under Section 164 Cr.P.C., she stated that she had gone to graze her pigs about 9.00 p.m. near the bus stop and three persons namely Raksha Ram, Ravi and Ravindra caught hold of her, made her sit in a vehicle, raped her and sold her in Nepal and they got her married to an old man.

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

8. The learned counsel for the applicant has submitted that co-accused Peshkar, has already been granted bail by means of an order dated 12.09.2023 passed by this Court in Criminal Misc. Bail Application No.11120 of 2023.

9. The learned A.G.A. has opposed the prayer for bail and on the basis of instructions he has submitted that in the additional statement of the victim recorded under Section 161 Cr.P.C. she stated that she had named the applicant in the statement given to the Investigating Officer but she forgot to mention his name before the Magistrate.

10. Having considered the aforesaid facts and circumstances of the case and keeping in view the discrepancies in the description incident in the F.I.R. wherein the informant has stated that the victim had gone to attend the call of nature in the night of 17.05.2023, in her statement recorded under Section 161 Cr.P.C., she stated that she was standing at Haraiya trisection at about 7.00 p.m. on 17.05.2023, from where she was kidnapped and the discrepancies in the statement of the victim inasmuch as in one statement she implicated that the applicant and in another statement she did not name him; that in her first statement she said that nobody had made physical relations with her, where as before the Magistrate she stated that all the three persons named by her before the Magistrate had raped her; that the allegation of rape is not supported by the findings of medico legal examination report, coupled with the fact that the applicant has no previous criminal history and he is languishing in jail since

30.05.2023 whereas a co-accused has already been granted bail, I am of the view that the applicant is also entitled to be released on bail on the ground of parity.

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

12. Let the applicant- **Bindu** 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 :- 22.11.2023
Preeti.