

Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10941 of 2023

Applicant :- Jeeshan

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

Counsel for Applicant :- Vikas Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Jyotsna Sharma,J.

1. Heard Shri Vikas Sharma, learned counsel for the applicant and Shri Ramesh Kumar, learned A.G.A. appearing on behalf of the State.

2. The present bail application has been filed by the applicant seeking bail in case crime no.292 of 2023 under Sections 376, 363, 366 I.P.C. and 3/4 P.O.C.S.O. Act registered at Police Station- Pihani, District- Hardoi.

3. As per version of the F.I.R., 18 years old daughter of first informant was enticed away by a 19 years old accused on 20.05.2023 at about 5:00 PM. The FIR said that the father of the victim searched for her but could not find her.

4. It is contended on behalf of the applicant that the statements of the victim under Section 161 and 164 Cr.P.C. do not support the prosecution case from any angle. The so-called victim in her statement under Section 161 Cr.P.C. clearly said that she left her house on her own after having altercation with her mother and that she, out of her own will went to Delhi by bus. She met the applicant, with whom she was having an affair. Both of them went through rituals of marriage in Jama Masjid and then in a temple and stayed together as husband and wife. She has, in her statement under Section 164 Cr.P.C. reiterated the same story and had added that she was not put to any physical assault or forcible relations by the accused and that she left the house on her own and that she is major and educated. It is further contended that in her radio-logical report, she was found to be aged about 17 years. It is further said that it is a case where two persons of same age are involved in a relationship with each other with their own consent and willingness and that no case under Section 376, 363 and 366 I.P.C. or 3/4 P.O.C.S.O. Act is made out.

5. The application for bail is opposed by learned A.G.A. but he could not counter a number of facts which have come during the investigation.

6. I have considered the nature of the allegations, role ascribed to the applicant, the evidence proposed, the severity of punishment and all other facts and circumstances of the case and that the applicant has no previous criminal antecedents, in my view, the applicant is entitled to be **released** on bail.

7. Let applicant - **Jeeshan** be released on bail in the aforesaid Case Crime Number on his furnishing personal bond and two reliable sureties each of the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not temper with evidence/witnesses.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel.

(iii) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) framing of charge and (ii) recording of statement under Section 313 Cr.P.C. without exception.

Order Date :- 16.11.2023

-Amit K-