

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12647 of 2023

Applicant :- Sandeep Kumar Yadav

Opposite Party :- State Of U.P Thru. Prin. Secy. Homes Civil Sectr. Lko. And 3 Others

Counsel for Applicant :- Vishal Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Vishal Srivastava, the learned counsel for the applicant as well as Sri Akhilesh Kumar Vyas, the learned A.G.A. for the State and perused the record.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 647 of 2022, under Section 377, 504, 506 I.P.C. and Section 5M/6 of Protection of Children from Sexual Offences Act, registered at Police Station Bhinga, District Shrawasti.
3. The aforesaid case has been registered on the basis of F.I.R. lodged on 06.12.2022, alleging that the applicant had sodomized the informant's six years old son.
4. The medico-legal examination of the victim mentions two scratches of 0.2 X 0.2 cm each on upper and lower part of the victim's anus which was opined to have been caused by some hard and blunt object.
5. In the affidavit filed in support of the 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.
6. P.W-1- informant has not supported the allegations in her

examination-in-chief recorded by the trial court and she has stated that the victim had suffered the injuries because of a fall suffered during play. The victim was also examined by the trial court but after putting some question to him the court recorded that the victim was not capable of giving a statement.

7. The doctor who had conducted the medico-legal examination report of the victim has been examined by the trial court and he has stated that a slide was prepared and sent for examination.

8. When the matter was placed before the court on 27.10.2023 the court had passed over the matter giving the learned A.G.A an opportunity to produce the pathology report/DNA report, if any but no such report could be produced till date.

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

10. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the informant has not supported the allegations against the applicant in her statement recorded by the trial court; the victim is incapable of giving a statement and doctor has also been examined and he has not stated anything categorically supporting the allegation, coupled with the fact that the applicant has no criminal history and he is languishing in jail since 07.12.2022 and without making any observations 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.

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

12. Let the applicant- **Sandeep Kumar Yadav** 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 the 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 :- 2.11.2023
Preeti.