

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13034 of 2023

Applicant :- Manoj Kumar @ Hareram Chaubey

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

Counsel for Applicant :- Manoj Kumar Singh

Counsel for Opposite Party :- G.A.,Bal Krishna Shukla

Hon'ble Subhash Vidyarthi,J.

1. Counter affidavit filed on behalf of the informant is taken on record.
2. Heard Sri Manoj Kumar Singh, the learned counsel for the applicant, Sri Amitabh Chaturvedi, the learned A.G.A. for the State as well as Sri Bal Krishna Shukla, learned counsel for the informant and perused the record.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 436 of 2023, under Section 363, 366, 368, 120-B I.P.C. and Section 16/17 of Protection of Children from Sexual Offences Act, registered at Police Station Hardi, District Bahraich.
4. The aforesaid case has been registered on the basis of F.I.R. lodged on 03.08.2023 against three persons, including the applicant and his two brothers, alleging that all the accused persons had enticed away the informant's daughter aged about 17 years at about 5:30 am on 02.08.2023.
5. In the statement of the victim recorded under Section 161 Cr.P.C, she stated that all the three accused persons had forcibly taken her with them and they took her to a temple at Lucknow and married her.
6. The victim was taken for medico legal examination but she declined to undergo the same.
7. In the statement of the victim recorded under Section 164 Cr.P.C, she stated that there is an old animosity between the victim's family and the accused persons due to which they had enticed her away and co-accused Triloki has married her against her wishes.

8. In the affidavit filed in support of the bail application, it has been stated that the applicant is a 65 years old persons and he is languishing in jail since 11.08.2023.

9. A supplementary affidavit has been filed along with the bail application, disclosing his involvement in Case Crime No. 210/2005 under Section 364, 302, 201, 120-B I.P.C, Police Station Boundi, District Bahraich, in which he has been granted bail.

10. The learned counsel for the informant has filed a counter affidavit opposing the bail application and a copy of the F.I.R of Case Crime No. 210/2005 has been annexed therewith, regarding which an averment has been made in the supplementary affidavit has been filed along with the bail application.

11. The learned counsel for the informant has vehemently opposed the bail application and he has submitted that the applicant is habitual of committing similar offences and, therefore, he is not entitled to be enlarged on bail.

12. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that in the statement of the victim recorded under Section 161 Cr.P.C, she stated that all the three brothers who have been made accused, had taken her and married her whereas in the statement of the victim recorded under Section 164 Cr.P.C, she stated that the applicant's brother has married her; that although the victim has alleged use of force but she declined to undergo medico legal examination and merely because the applicant is an accused in a case initiated by lodging an F.I.R in the year 2005, it cannot be said by lodging another F.I.R after 18 years that the applicant is habitual of commission of similar offences; that the applicant is a 65 years old persons and he is languishing in jail since 15.08.2023 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.

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

14. Let the applicant- **Manoj Kumar @ Hareram Chaubey** 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 :- 7.11.2023
Preeti.