

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13780 of 2023

Applicant :- Amla Alias Arjun Verma

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

Counsel for Applicant :- Manoj Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Heard Shri Manoj Kumar Sing, 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- **Amla Alias Arjun Verma** for grant of bail, in Case Crime No. 282 of 2023, under Sections 363, 366, 376, IPC & Section 3/4 POCSO Act and Section 3(2)(v) SC/ST Act, Police Station Malhipur, District Shrawasti, during trial.

3. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. The First Information Report has been lodged by the mother of the prosecutrix alleging therein that her daughter aged about 14 years has been enticed away by the applicant with the help of other co-accused persons on 29.7.2023 at about 6.00 p.m. However, after recovery of the prosecutrix, her statement was recorded under Sections 161 and 164 Cr.P.C., wherein she alleged to have been taken by the applicant and other accused persons and also that she was taken to the house of his sister where sexual relations were made by the applicant with her and thereafter they went to Delhi where the prosecutrix was living as his wife and thereafter they went to Bihar.

4. Learned counsel for the applicant submits that though the allegations of sexual assault and abduction has been stated by prosecutrix in her statements recorded under Sections 161 and 164 Cr.P.C. however, the same have been stated on account of being under the pressure of her family members. It is vehemently submitted that it is admitted to the prosecutrix that at the relevant time she was in the company of her friends Arti Devi and Puchki@ Pooja Devi and in statement of these witnesses recorded under Section 161 Cr.P.C. they have stated that they and prosecutrix are close friends and they have seen

the applicant talking with the prosecutrix many times and when on relevant day they had gone to witness the Tazia Procession, the applicant was already there and the prosecutrix had gone with him on his motorcycle.

5. It is vehemently submitted that conduct of the prosecutrix in accompanying the applicant on his motorcycle would sufficiently demonstrate that she was a consenting party.

6. It is also submitted that as per her educational credentials, the date of birth of prosecutrix is shown as 5.7.2006 whereby she comes about 17 years and 24 days at the date and time of the incident. Thus, even if it is assumed that she was not major but she was of such age where she must be having sufficient intellect to understand her welfare as well as the nature of the act.

7. It is further submitted that medical reports of the prosecutrix are also clean and no abnormality or any injury etc. has been found at the time of medical examination.

8. It is also submitted that the applicant is in jail in this case since 17.8.2023 and he is not having any criminal antecedent. Charge sheet in this case 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.

9. Learned A.G.A. on the other hand submits that the applicant is accused of committing an heinous offence, therefore, he is not entitled to be released on bail.

10. Having heard learned counsel for the parties and having perused the record, it is reflected that on the basis of educational credentials, the age of the prosecutrix is coming as of 17 years and 24 days at the date and time of the alleged incident and through Radiological process her age has been assessed as 16 years, which is capable of two years interpretation either side. In the statement of the prosecutrix recorded under Sections 161 and 164 Cr.P.C. she has stated to have been abducted and raped by the applicant, but the attention of this Court has been drawn by learned counsel for the applicant on this aspect of the matter that the prosecutrix has travelled with the applicant to many cities and therefore she is a consenting party. Attention of this Court has also been drawn towards the statement of Km. Arti Devi and Km. Puchki @ Pooja Devi who are close friends of victim and were allegedly accompanying the prosecutrix at the relevant point of time and they both have stated that the prosecutrix had gone

with the applicant on his motorcycle in order to show that the prosecutrix is a consenting party. The applicant is in jail in this case since 17.08.2023 and he is not having any criminal history. The medical reports of the prosecutrix are also clean. Charge sheet in this case has already been filed. His presence may be secured before the trial court by placing adequate conditions.

11. Keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, submissions of the learned counsel for the parties and without expressing any opinion on the merits and demerits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is **allowed**.

12. Let the applicant- **Amla Alias Arjun Verma** involved in the aforesaid case be released on bail on furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.

(ii) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(iii) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

13. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

14. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

15. Observations made herein-above are only for the purpose of disposal of bail application and the same shall not have any bearing on the trial of the case.

Order Date :- 22.12.2023

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