

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14397 of 2023

Applicant :- Manoj Kumar Gautam

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

Counsel for Applicant :- O.P. Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri O.P. Tiwari, the learned counsel for the applicant as well as Sri Jayant Singh Tomar, the learned A.G.A.-I 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. 543 of 2023, under Section 363, 366 I.P.C. and Section 7/8 of Protection of Children from Sexual Offences Act, registered at Police Station Gangaghat, District Unnao.
3. The aforesaid case has been registered on the basis of F.I.R. lodged on 16.09.2023, alleging that the applicant had enticed away the informant's niece aged about 16 years at about 7:00 am on the aforesaid date.
4. The statement of the victim was recorded under Section 161 Cr.P.C on 20.09.2023, wherein she stated that she is aged about 17 years, she had herself gone to the applicant's village and has married him and she wants to live with the applicant only.
5. In the medico legal examination report of the victim, no abnormality has been detected.
6. In the statement of the victim recorded under Section 164

Cr.P.C, she alleged that the applicant had made her inhale something whereafter she lost consciousness. She regained consciousness at Haridwar and she could not say whether any misdeed was committed against her or not.

7. A copy of the birth certificate of the victim issued by Nagar Nigam, Kanpur has been annexed with the affidavit wherein her date of birth has been mentioned to be 08.06.2005 from which it appears that the victim was major on the date of the incident.

8. In the affidavit filed in support of the bail application, it has been stated that the applicant is a 23 years old innocent person having has no criminal history and he and the victim were in love. The victim's family members were opposed to their relations and therefore the victim forced him to marry her against her wishes of her family members.

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 from the birth certificate issued by the Nagar Nigam, Kanpur, the victim appears to be major on the date of the incident; in her statement recorded under Section 161 Cr.P.C, she stated that she has married the applicant and wants to live with him only and that the allegations of commission of offence have been levelled subsequently, coupled with the fact that the applicant has no previous criminal history and he is languishing in jail since 25.09.2023 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.

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

12. Let the **applicant- Manoj Kumar Gautam** 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 :- 7.12.2023
Preeti.