HIGH COURT OF UTTARAKHAND AT NAINITAL

First Bail Application No.2024 of 2024

Mintu .....Applicant

Versus

State of Uttarakhand .....Respondent

Present:-

Mr. Gaurav Singh, Advocate for the applicant.
Mr. S.C. Dumka, A.G.A. for the State.
Mr. Abhishek Verma, Advocate for the informant.

Hon'ble Ravindra Maithani, J. (Oral)

Applicant is in judicial custody in FIR/Case Crime No. 399 of 2024, under Section 3/4 of the Protection of Children From Sexual Offences Act, 2012 and Section 363, 376 IPC, Police Station Kotwali Roorkee, District Haridwar. He has sought his release on bail.

2. Heard learned counsel for the parties and perused the record.

3. According to the FIR, the applicant was in romantic relationship with the victim. From 25.06.2024, the victim was found missing and a report was lodged.

4. Learned counsel for the applicant would submit that both the applicant and the victim were in romantic relationship. The victim left her home on her own and established relationship. It is argued that this is so stated by the victim in her statement given to the Investigating Officer, but subsequently, when she was examined under Section 164 of the Code of Criminal Procedure, 1973 ("the

Code"), it is argued that she was under the pressure of her family members. They have twisted her statements and she has stated that physical relations were not established with her consent.

5. Learned counsel for the informant would submit that the statement under Section 164 of the Code shall prevail.

6. Learned State counsel would submit that without the consent of the victim, the applicant established physical relations with her.

7. It is the stage of bail. Much of the discussion is not expected of. Arguments are being appreciated with the caveat that any observation made in this order shall have no bearing at any subsequent stage of the trial or in any other proceedings.

8. The FIR itself records that the applicant and the victim were in romantic relationship. This is so what was stated by the victim in her statement given to the Investigating Officer. She had left her home on her own. But subsequently, while examining before the Magistrate, she revealed that the relationship was not consensual. Fact remains that when examined by the doctor, the victim revealed that the relationship was consensual.

9. Having considered the entirety of facts, this Court is of the view that the applicant deserves to be enlarged on bail.

10. The bail application is allowed.

11. Let the applicant be released on bail, on his executing a personal bond and furnishing two reliable sureties, each of the like amount, to the satisfaction of the Court concerned.

(Ravindra Maithani, J)
11.12.2024

Jitendra

JITENDRA MOHAN