

Court No. - 76

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 33756 of 2022

Applicant :- Bhola Jaiswal @ Anuj Jaiswal

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Anish Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Chandra Sharma,J.

Heard learned counsel for the applicant, learned A.G.A for the State and perused the record.

Learned counsel for the applicant has submitted that the applicant is innocent and has falsely been implicated in the present case for enticing the daughter of the informant and establishing physical relation with her on the pretext of marriage two years prior to the alleged incident. It is also submitted that the applicant was black mailing her by preparing obscene video but such video is not on record. It is also submitted that the victim made different statements before the Magistrate under section 164 Cr.P. under pressure of her parents whereas the relationship with the victim two years prior to present incident has been mentioned in the F.I.R by the informant himself which indicates that the victim was consenting party. As per medical examination, her age was 18 years. In this way the victim being major and consenting party, no case of enticement and rape is made out. He is languishing in jail since 10.6.2022 and in case he is released on bail, he will not misuse the liberty of bail and will cooperate in trial.

On the other hand, learned AGA opposed the prayer for bail.

Keeping in view the nature of the offence, evidence, complicity of the accused, submissions of the learned counsel for the parties, age of the victim and willingness and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

Let the applicant-**Bhola Jaiswal alias Anuj Jaiswal**,involved in Case Crime No.118 of 2022, under Sections 376, 506 I.P.C and 5/6 of POCSO Act, 2012 and 67 The Information Technology Act, 2000, P.S. Nandganj, District Ghazipur be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following

conditions.

1. The applicant will not tamper with the evidence during the trial.
2. The applicant will not pressurize/ intimidate the prosecution witness.
3. The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.
4. The applicant shall not commit an offence similar to the offence of which he is accused, or suspected of the commission of which he is suspected.
5. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 6.9.2022

G.S