

Court No. - 43

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50188 of 2022

Applicant :- Omraj Singh @ Deepak

Opposite Party :- State Of U.P And Another

Counsel for Applicant :- Sanjeev Kumar Tyagi, Rakesh Chandra Upadhyay

Counsel for Opposite Party :- G.A.

Hon'ble Ashwani Kumar Mishra, J.

Heard learned counsel for the applicant, Sri Abhishek Mishra for the informant and learned AGA for the State and perused the record.

The present bail application has been filed by the applicant seeking enlargement on bail in Case Crime No.1644 of 2020, under Sections 376, 506, 120-B IPC & Section 67 of the Information Technology Act, 2000, Police Station Sihani Gate, District Ghaziabad.

Applicant claims to be the husband of the victim, who is accused of various offences including rape as well as offence under Section 67-A of the I.T. Act, 2000. According to the FIR the informant was pursuing her B.Ed. course and came in contact with the applicant some time in April, 2015 through a common friend and telephonic conversation followed. In the name of friendship sexual intercourse was allegedly started with the applicant while the victim was minor and her obscene photographs have been taken, on the strength of which the marriage allegedly was got solemnized. It is alleged that those obscene photographs have now been sent to the family members of the victim and offences under Section 67-A of the I.T. Act have also been committed.

Learned counsel for the applicant with reference to the statement of the victim under Section 164 Cr.P.C. submits that the informant had admitted that physical relations were formed with the mutual consent of the parties, and therefore the subsequent plea that by threatening the victim with a pistol physical relations were formed cannot be believed. It has also been submitted that the marriage is also admitted to the family and her statement that she was forced to marry the applicant is nothing but a false plea taken after difference have arisen between the parties. It is also submitted that proceedings under Section 9 of the Hindu Marriage Act, 1955 have been initiated for restitution of conjugal rights, which is pending.

Learned AGA as well as Sri Abhishek Mishra for the informant have strongly opposed the prayer for grant of bail on the ground that the victim was a minor when the relations were firstly formed and her consent was immaterial. It is also submitted that even if the plea of marriage is taken into consideration, yet, it does not permit the accused to sent her obscene videos to family members of the victim alongwith others. It is also pointed out that these videos have been recovered and are with the police, and therefore the victim has had to suffer grave humiliation and harassment, and in such circumstances the applicant is not entitled to grant of bail.

From the facts and circumstances, as have been brought on record, though it appears that relationship was consensual to start with and plea of marriage is also taken, yet, that would not give a licence to the husband to prepare the obscene videos of his wife and sent it to the family members. Mere fact that punishment can extend upto five years under Section 67-A of the I.T. Act is also no ground to deal with such acts of violation of privacy casually. Since the chargesheet has already been submitted and cognizance has been taken, this Court is of the view that the applicant is not entitled to grant of bail, at this stage. Prayer in that regard is rejected.

Bail application, accordingly, is rejected.

However, the trial is directed to be expedited and concluded, expeditiously, preferably within a period of one year.

Order Date :- 19.12.2022

Anil