

**Court No. - 73**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 18843 of 2024

**Applicant :-** [REDACTED]

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

**Counsel for Applicant :-** Shailendra Singh, Ashish Kumar Chaurasiya

**Counsel for Opposite Party :-** G.A.

**Hon'ble Sameer Jain, J.**

1. Sri Imran Khan, learned AGA for the State apprised the Court that on 6.5.2024, notice has been served to the informant of the case. Despite service of notice, none appeared on behalf of the informant.
2. Supplementary affidavit filed in Court today on behalf of the applicant is taken on record.
3. Heard Sri Shailendra Singh along with Sri Ashish Kumar Chaurasiya, learned counsel for the applicant and Sri Imran Khan, learned AGA for the State-respondent.
4. The instant application has been filed seeking release of the applicant on bail in Case Crime No.301 of 2023, under Sections 377 IPC & 5m/6 POCSO Act, Police Station-Titawi, District-Muzaffarnagar, during pendency of the trial in the court below.
5. FIR of the present case was lodged against applicant and according to FIR, applicant committed unnatural sexual offence against the son of the informant aged about 8 years.
6. Learned counsel for the applicant submitted that on the basis of false allegation, applicant has been made accused in the present matter.
7. He next submitted that however, victim in his both the statements recorded during the investigation stated against the applicant, but in statement under Section 164 Cr.P.C., he also stated that some dispute arose between applicant and his father and this fact shows that the relationship of applicant and informant was

not cordial and only due to this dispute it appears that applicant has been made accused in the present matter.

8. He further submits that however, medical report of the victim suggests that doctor noted one abrasion on his annul region, but injury was simple and after considering injury, it cannot be ruled out that it was not caused due to hardness of stool.

9. He further submitted that applicant is not having any criminal history and he is in jail since 27.10.2023.

10. Per contra, learned AGA opposed the prayer for bail, but could not dispute the fact that applicant is having no criminal history and in the present matter, he is in jail since for the last six months.

11. I have heard learned counsel for the parties and perused the record of the case.

12. However, as per allegation, applicant committed unnatural sexual offence against the son of the informant aged about eight years and victim in his both the statements recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. also stated against the applicant and from the medical report of the victim, it also reflects that doctor noted one abrasion on his annul region, but considering the abrasion sustained by the victim, the argument advanced by learned counsel for the applicant that this abrasion can even be caused by hardness of the stool cannot be completely ruled out at this stage.

13. Further, applicant is not having any criminal history and he is in jail since 27.10.2023.

14. Therefore, considering the facts and circumstances of the case discussed above, in my view applicant is entitled to be released on bail.

15. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

16. Let the applicant [REDACTED] 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 the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make 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 any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

17. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

18. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

**Order Date :- 29.5.2024**

LN Tripathi