

UPGB010135552022



Presented on : 17-09-2022
Registered on : 17-09-2022
Decided on : -- 22-09-2022

In the Court of Additional Sessions Judge/Special Judge, POCSO Act (First),
Court No.16, Gautambuddha Nagar

B.A. No.5792/2022
UP GB01-013555-2022

Amit Giri S/O Mahendra Vs.

State of UP

Case Crime No.469/2022
U/S 376 IPC &
Sections 5/6 POCSO Act
P. S.-Bisrakh
District- Gautambuddha Nagar

Date/22.09.2022

1. This bail application supported with affidavit has been moved on behalf of applicant/accused Amit Giri S/O Mahendra, in Case Crime No.469/2022, U/S 376 IPC & Sections 5/6 POCSO Act, P. S.-Bisrakh, District- Gautambuddha Nagar. This is the first bail application of the applicant/accused and no other bail application is pending before any other court or before Hon'ble High Court as stated in affidavit.
2. In brief, the prosecution statement is as follows that complainant, age about 17 years has friendship with Amit for the last one year. Amit pretended to get married with her and made physical relationship. The first information report was registered against applicant/accused and investigation started.
3. Learned advocate for applicant/accused submitted that applicant/accused is innocent and falsely implicated. He has not committed any crime. Complainant is pressurizing her for marriage while applicant/accused has no physical relationship with her. Complainant has stated that she is above 17 years of age but in reality she is adult. Applicant/accused has only friendship with her and have telephonic conversation. No other relationship was there. Complainant has not get herself medically examined. Applicant/accused has not made physical relationship forcefully and he has no criminal antecedents. Applicant/accused is in judicial custody since 04.08.2022. Hence, prayed for granting bail.
4. Per contra, learned Special Public Prosecutor has opposed the bail of applicant/accused and prayed for rejection of bail.
5. Heard the learned counsel for the applicant/accused and learned Special Public Prosecutor and perused the relevant documents.

6. Perused the case diary and other material documents available on record. Victim's statement under section 164 Cr.P.C. is recorded in CD No.3 in which she has stated that "I am studying in class 12th. My date of birth is 18.12.2006. I knew Amit from childhood. He is from my village. We have conversation for the last one year. We were in relationship. In this one year, I and Amit met several times. We made physical relationship. Amit has assured me for marriage, so I gave consent for physical relationship, some time at OYO Hotel and some time at my home. We lived in a rented room from 14.07.2022 to 25.07.2022. We lived like husband and wife. We did not marry. Amit left for somewhere on 25.07.2022 and did not return. I did not have talk with Amit since then. I want to live with my family member." Copy of High School marksheet is available on record in which date of birth of victim is recorded as 18.12.2006 while the date of incident is shown as 26.07.2022 i.e. victim was minor of age below 18 years at the time of alleged incident. The matter is very serious in nature.

Hence, considering the entire facts and circumstances of the case as well as the submissions made by learned counsel for the parties and also perusing the material available on record, without expressing any opinion on merit of the case, this court does not find sufficient basis for granting bail to the applicant/accused.

Order

The bail application of the applicant/accused **Amit Giri S/O Mahendra**, in Case Crime No.469/2022, U/S 376 IPC & Sections 5/6 POCSO Act, P. S.-Bisrakh, District- Gautambuddha Nagar is hereby rejected.

The copy of order be provided free of cost to the applicant/accused immediately.

(Dr. Anil Kumar Singh-II)
Additional Sessions Judge/
Special Judge, POCSO Act (First)
Gautambuddha Nagar
J.O. Code- UP01535

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