

Court No. - 67

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 37963 of 2021

Applicant :- Samsu @ Samshulhaq

Opposite Party :- State Of U P And Another

Counsel for Applicant :- Abhishek Tiwari, Chandra Shekhar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Rahul Chaturvedi, J.

Heard Sri Chandra Shekhar Mishra, learned counsel for the applicant and Mrs. Anjali Upadhyay, learned AGA appearing on behalf of the State.

The applicant, Samsu @ Samshulhaq is in jail since 11.06.2021 in connection with Case Crime No. 176 of 2021 under Sections 376, 506 IPC and 5/6 POCSO Act, P.S. Janakpuri, District Saharanpur during pendency of the trial.

Contention raised by the learned counsel for the applicant that the present FIR was lodged by Smt. Gulfisa against sole named accused, Samsu @ Samshulhaq, who is the applicant here with the allegation that her daughter, aged about six years, use to visit the place of the applicant for private tuition, where she was mercilessly misbehaved and raped by the applicant. It is submitted that the applicant has been falsely implicated in the present case because of enmity between the complainant and the applicant. The applicant himself is a Senior citizen, and it is not expected that such a senior person would involve himself in such a heinous offence. It is argued that it is on that account, the applicant has been falsely implicated in the present crime.

Learned AGA has vehemently opposed the prayer for bail and submits that the prosecutrix is a young girl of six years regarding whom there are specific allegation of sexual molestation and rape.

A perusal of the medical report shows that the victim is a young girl of six years. Her hymen was torn. In the statement of the victim recorded under Section 164 Cr.P.C., she has made an explicit allegation of committing unnatural sex with her. From a perusal of the record, it shows that it is a typical case, where the applicant could safely be termed as a paedophile. The applicant is a mentally retarded person, who could not save a young girl.

Looking to the fact that the prosecutrix is a child of six years

and the offence of which the applicant has been charged and the evidence appearing *prima facie* shows his complicity, I am not inclined to enlarge the applicant on bail.

Accordingly, the bail application stands **rejected**.

Order Date :- 27.10.2021

Deepak