

**Court No. - 69**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 26401 of 2024

**Applicant :-** Jamna Giri

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

**Counsel for Applicant :-** Arun Kumar

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

**Hon'ble Rohit Ranjan Agarwal,J.**

Office report dated 12.08.2024 indicates that notice has been served personally upon the informant.

In view of the said office report, notice upon the opposite party no.2 is deemed to be sufficient.

On the matter being taken up today, no one has put in appearance on behalf of the informant.

Heard learned counsel for the applicant and learned AGA for the State.

The prosecution, as unfolded from the First Information Report, is that the victim is a boy aged about 11 years and already lost his parents, and is living with his uncle/informant. On 09.02.2024, he had gone to see the mela/fair and when he did not return, his uncle went to search him and found him crying. The victim told that the applicant has taken him away near a temple, and had performed unnatural sex with him.

Learned counsel for the applicant has submitted that the applicant has falsely been roped in the present case due to village enmity. He further submits that the applicant is a *pujari* and is taking care of

Bahadurpur Mishra Temple. It is submitted that the informant wanted him to remove from the temple and thus, a false FIR was lodged. The applicant does not have any criminal history to his credit. It is further submitted that the injury report does not speak about the offence under Section 377 IPC, and there is no external injury found during investigation. He has further submitted that in the statement recorded under Section 164 Cr.P.C., the victim had further elaborated the incident which was not recorded in the statement under Section 161 Cr.P.C. It is further submitted that the applicant is languishing in jail since 10.02.2024 and in case he is released on bail, he will not misuse the liberty of bail.

On the other hand, learned AGA has vehemently opposed the prayer for bail and submitted that the offence of the applicant has shaken the conscious. He has relied upon the statement recorded under Section 164 Cr.P.C.

I have heard respective counsel for the parties and perused the material on record.

The victim in his statement recorded under Section 164 Cr.P.C. has maintained the FIR version as well as statement recorded under Section 161 Cr.P.C. He has further deposed how the act was performed by the applicant.

From the perusal of the statement of the victim, who is a minor aged about 12 years, it is clear that the applicant has committed offence which has shaken the conscious of this Court. There is no occasion why the victim, who is minor, would give such type of statement against the applicant.

Looking to the gravity of the offence committed by the applicant,

*prima facie*, no case for bail is made out, at this stage.

Hence, the bail application of the applicant- Jamna Giri involved in Case Crime No.0050 of 2024, under Section 377 IPC & Section 3/4 POCSO Act, Police Station- Adampur, District- Amroha is hereby **rejected**.

**Order Date :- 13.8.2024**

SK Goswami