

BA1 No. 797 of 2018

Hon'ble V.K. Bist, J.

Mrs. Pushpa Joshi, Senior Advocate, assisted by Ms. Chetna Latwal, Advocate for the applicant.

Mr. Sandeep Tandon, Deputy Advocate, General for the State of Uttarakhand.

Heard learned counsel for the parties.

This is the first bail application moved by the applicant.

The applicant- Sanjay Kumar is seeking regular bail in connection with Case Crime No. 108 of 2018, relating to offences punishable under Section 376 (2) (n) of I.P.C. and Section 5 (m)/6 of the POCSO Act, registered at P.S. Kotwali Haridwar, District Haridwar.

On 05.02.2018, an F.I.R. was registered by the complainant against the applicant, alleging therein, that one person, namely, Manoj, who is the neighbour of the complainant, introduced the daughter of the complainant to the applicant on 11.09.2012. It is alleged in the F.I.R. that, Manoj pressurized the daughter of the complainant for making friendship with the applicant. Thereafter, applicant usually used to chase the daughter of the complainant. The daughter of the applicant objected the said act of the applicant. Thereafter, on 01.01.2013, the applicant, by enticing the daughter of the applicant, committed rape on her in a room at Brahampuri. The applicant threatened the daughter of

the complainant and said that if she discloses the incident to anyone, he will viral her obscene photographs. It is stated that, due to threat, the daughter of the complainant did not disclose the said incident to her family members. It is further alleged in the F.I.R. that, from the year 2014 to 2015, when the daughter of the complainant used to go to Kashipura for tuition, then the applicant, by extending threat to her, several times made physical relations with her. When the daughter of the complainant showed her wish to marry with the applicant, then it came into the knowledge of her that the applicant is already a married person, having two children. Thereafter, applicant again met the daughter of the complainant and promised her that he will marry with her after giving divorce to her earlier wife. It is further alleged in the F.I.R. that on 28.02.2018, the applicant again committed rape with the daughter of the complainant.

Learned counsel for the applicant submitted that the applicant has falsely been implicated in the instant crime; has no previous criminal history and is languishing in jail since 12.03.2018. She submitted that it is a case of love affair, which is apparent from the fact that the victim admitted before the police that she loves the applicant and her family members are annoyed. She stated that in case the applicant is granted bail, applicant will not misuse the same and will furnish

the bail surety as per the satisfaction of this Court.

Considering the submission of learned counsel for the parties, and without expressing any opinion as to final merits of the case, this Court is of the view that the applicant deserves bail at this stage.

The bail application is allowed.

Let the applicant be released on bail, on executing personal bond and furnishing two reliable sureties, each of the like amount to the satisfaction of the Court concerned.

(V.K. Bist, J.)

27.04.2018

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