

Court No. - 12

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 6732 of 2024

Applicant :- Ramchandra Yadav

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Civil Sectt. Lko
And 3 Others

Counsel for Applicant :- Smriti

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Heard learned counsel for the applicant, learned A.G.A for the State of U.P. and perused the record.
2. The present bail application has been filed on behalf of the applicant in Case Crime No.222 of 2023, under Sections 363, 366, 376(3) I.P.C. & Section 5(j)(2)/6 POCSO Act, Police Station Gangaghat, District Unnao, with the prayer to enlarge him on bail.
3. Sri Bhanu Pratap Singh, learned A.G.A. placed written information duly signed by S.I., Police Station Gangaghat, Unnao and informed that information has already been given to the informant for doing effective pairvi of the case but no one has put in appearance on behalf of the applicant.
4. Learned counsel for the applicant submits that the applicant has been falsely implicated in the case and he is in jail since 5.9.2023. He further submits that as per the prosecution case, the F.I.R. of the case in question was lodged by brother of the victim with the allegation that on 21.4.2023 at about 4:00 P.M., when victim was not found in the house, search was made but since no information could be gathered, missing report was lodged against unknown persons under Section 363 I.P.C. Thereafter, victim was recovered and appeared in the police station and moved an application with the averment that she is aged about 20 years, r/o Shakti Nagar, Shuklaganj, Unnao and also stated that as she was being scolded by her mother, she left her house due to annoyance and went to the house of her aunt at Kanpur. She further stated that she herself came to the police station.

Thereafter, her statement under Section 161 Cr.P.C. was recorded by lady constable, Priya Singh, in which, she reiterated her version as mentioned in her aforesaid application. Thereafter, she was produced before doctor and in her ossification test, her age was found to be 15 years. It is further submitted that during the medico legal examination, her hymen was found torn and healed, and no internal injury was found. He also submits that her vaginal swab was also collected for D.N.A. and sent for examination. In the ultrasound report, it was found that victim was carrying pregnancy of nine weeks on 19.9.2023. He further submits that charge sheet has already been filed and trial is not going on. In these circumstances, the applicant is entitled for bail. In case of being enlarged on bail, he will not misuse the liberty of bail.

4. Learned A.G.A. has opposed the prayer for grant of bail and submits that applicant himself has confessed that he made physical intimation with the victim and parents of the victim also supported the prosecution story, therefore, charge sheet was submitted. He also conceded this fact that during the course of investigation, specific question was asked from the victim about her pregnancy.

5. Considering the rival submissions of learned counsel for applicant, learned A.G.A., material available on record, contents of F.I.R., other relevant documents, nature of offence as well as statement of the victim recorded under Section 161 as well as 164 Cr.P.C., it is evident that victim has not supported the prosecution version in her deposition, therefore, I am of the view that the applicant is entitled to be released on bail.

6. Let applicant - **Ramchandra Yadav** - be released on bail in aforesaid Case Crime, on his furnishing personal bond and two reliable sureties each of the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not commit or participate in any offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

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

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The applicant shall remain present before the Trial Court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A IPC.

(v) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C., may be issued and if applicant fails to appear before the Court on the date fixed in such proclamation, then, the Trial Court shall initiate proceedings against him, in accordance with law, under Section 174-A IPC.

(vi) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

7. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

8. This is a peculiar case of poor quality of investigation as well as supervision. In the present case, it is found that victim is aged about 14 years and in the ultra sound report, it is also observed that she was carrying pregnancy of nine weeks but

no any specific question was asked about her pregnancy by Investigating Officer and same was also not observed by the Supervising Officer.

9. The D.G.P., U.P., Lucknow is directed to file affidavit enclosing the circulars related to the accountability of the Investigating Officer, Supervising Officer, Monitoring Officer and other higher officials, by the next date of listing.

10. List this case on 29.7.2024 at 11:30 A.M. for further order.

Order Date :- 20.6.2024

Gaurav/-