

**Court No. - 67**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 11115 of 2020

**Applicant :-** Ahalkar

**Opposite Party :-** State of U.P. and Another

**Counsel for Applicant :-** Ashok Kumar

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

**Hon'ble Rahul Chaturvedi,J.**

Heard learned counsel for the applicant, learned AGA and perused the record.

By means of this application, the applicant who is involved in case crime no. 242 of 2019, under Sections 363, 366, 376 IPC and 4 POCSO Act, P.S. Aliganj, District- Etah is seeking enlargement on bail during the trial.

Learned counsel for the applicant in support of his application for bail submits that the applicant is innocent. He has been falsely implicated. It is further submitted that after receiving the protection from this Court in Writ-C No.26823 of 2019, she was admitted for her ossification test, her age shown as 15-16 years, there is no whisper of any sexual assault upon her by the applicant. The applicant is in jail since 19.12.2019 and is entitled to be enlarged on bail.

Learned AGA opposed the prayer for bail but could not dispute the aforesaid facts and the legal submissions as argued by the learned counsel for the applicant.

The submissions made by learned counsel for the applicant, prima facie, quite appealing and convincing for the purpose of bail only.

Keeping in view the nature of the offence, evidence, complicity of the accused, submissions of the learned counsel for the parties and without expressing any opinion on merits of the case, I am of the view that the applicant has made out a fit case for bail.

Let the applicant **Ahalkar**, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

**(i) THE APPLICANT SHALL FILE AN UNDERTAKING TO THE EFFECT THAT HE/SHE 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.**

**(ii) THE APPLICANT SHALL REMAIN PRESENT BEFORE THE TRIAL COURT ON EACH DATE FIXED, EITHER PERSONALLY OR THROUGH HIS/HER COUNSEL. IN CASE OF HIS/HER ABSENCE, WITHOUT SUFFICIENT CAUSE, THE TRIAL COURT MAY PROCEED AGAINST HIM/HER UNDER SECTION 229-A IPC.**

**(iii) IN CASE, THE APPLICANT MISUSES THE LIBERTY OF BAIL DURING TRIAL AND IN ORDER TO SECURE HIS/HER 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/HER, IN ACCORDANCE WITH LAW, UNDER SECTION 174-A IPC.**

**(iv) 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 THE HIM/HER IN ACCORDANCE WITH LAW.**

**(v) THE TRIAL COURT MAY MAKE ALL POSSIBLE EFFORTS/ENDEAVOUR AND TRY TO CONCLUDE THE TRIAL WITHIN A PERIOD OF ONE YEAR AFTER THE RELEASE OF THE APPLICANT.**

However, it is made clear that any wilful violation of above conditions by the applicant, shall have serious repercussion on his/her bail so granted by this court and the trial court is at liberty to cancel the bail, after recording the reasons for doing so, in the given case of any of the condition mentioned above.

**Order Date :- 18.3.2020**

Abhishek Sri.