

**Court No. - 33**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 23605 of 2020

**Applicant :-** Yusuf @ Ishu

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

**Counsel for Applicant :-** Sarvesh Kumar  
Dubey, Maohammd Nadeem, Swatantra Kumar Singh

**Counsel for Opposite Party :-** G.A., Shailendra Kumar  
Tripathi

**Hon'ble Ashwani Kumar Mishra, J.**

Heard Sri Mohd. Nadeem, learned counsel for the applicant, Sri Shailendra Kumar Tripathi, learned counsel for the complainant and learned A.G.A. for the State and perused the record.

The present bail application has been filed by the applicant Yusuf @ Ishu in Case Crime No. 36/2020, under Sections 363, 366, 376 IPC and Section 3/4 of the Protection of Children from Sexual Offences Act and Section 3(2)5 of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, Police Station Vishungarh, District - Kannauj, with the prayer to enlarge him on bail.

As per FIR version the complainant's daughter belongs to scheduled caste and reportedly went missing for the last 2-3 days since 16.2.2020; on 19.2.2020, the complainant came to know that his daughter has been enticed by the applicant and when attempt was made to request the family members to return the girl, then the complainant has been threatened. A first information report has been lodged on 20.2.2020 in that regard and the victim has been recovered on 13th March, 2020.

Learned counsel for the applicant places reliance upon the statement of the victim under Sections 161 and 164 Cr.P.C., according to which she had voluntarily left for Delhi and after reaching there had telephonically informed of her arrival and was living with the applicant out of her own volition. Victim has categorically stated that she is in love with the applicant and is living with the applicant out of her own volition.

Learned counsel for the complainant however points out that the victim is still a minor. Attention of the Court has been invited to a medical certificate according to which the age of the victim is between 14-16 years. However, as per statement under Section 164 Cr.P.C., the victim is about 17 years of age.

Having considered the submissions made by learned counsel for the parties, this Court finds that in view of the statement of the victim under Sections 161 and 164 Cr.P.C. which is specifically against the FIR version and also in

view of the fact that the applicant is in Jail for the last more than one year and the trial is not likely to be concluded shortly, the applicant is entitled to grant of bail at this stage. Above observations made in the bail order shall however not be construed as expression of opinion, on the merits, at the stage of Trial.

Let the applicant- Yusuf @ Ishu involved in aforesaid case crime be released on bail on his 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 shall not seek any adjournment on the dates 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 counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) 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. is issued and the 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 of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) 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.

The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad. The computer generated copy of such order shall be self attested by the counsel of the party concerned.

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

**Order Date :- 30.4.2021**  
Ranjeet Sahu