

Court No. - 33

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 28734 of 2020

Applicant :- Ram Pravesh

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

Counsel for Applicant :- Sunil Kumar Singh

Counsel for Opposite Party :- G.A., Yogesh Kumar Singh

Hon'ble Ashwani Kumar Mishra,J.

This bail application has been heard by the virtual Court and video links have been sent to all the parties including Sri Yogesh Kumar Singh, who appears for the complainant.

Sri Sunil Kumar Singh, learned counsel for the applicant and Sri Prashant Kumar, learned A.G.A. for the State have joined the proceedings and have been heard, but the learned counsel for the complainant has not chosen to join the proceedings and no request for adjournment has otherwise been made on his behalf.

The present bail application has been filed by the applicant Ram Pravesh in Case Crime No. 199/2020, under Section 376 IPC and 3/4 POCSO Act, Police Station Ghosi, District - Mau, with the prayer to enlarge him on bail. The applicant is in jail since 29.3.2020.

As per FIR version, the complainant in connection with the illness of his wife had gone to Delhi and in his absence his minor daughter was lured by the applicant and he had established physical relations with her. This offence continue between 27th February to 4th March, 2020 and after the complainant returned such fact came to his notice. A first information has been lodged on 28th March, 2020 at 10.35 A.M.

Learned counsel for the applicant states that apart from the applicant, all his family members including his parents, brother and sister, etc. were named in the FIR, but the chargesheet has been filed only against the applicant. Learned counsel has invited attention of the Court to the medical examination report of the victim in which her age is shown to be between 18 to 22 years and no injury is shown to have been caused to her. It is further stated that the parties knew each other and the victim herself had consented for physical relations, but only because the marriage could not be solemnized between them, on the resistance of the family, the FIR has been lodged. It is stated that none of the ingredients of Section 376 IPC is otherwise made out. It is stated 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 and the complainant are also neighbours and were known to each other for long. The F.I.R. is otherwise alleged to be delayed by 24 days and

no explanation exists to explain it.

Learned AGA on the other hand states that the victim is 16 years of age and she has supported the FIR version under Section 161 and 164 Cr.P.C.

Considering the fact that there is a delay of more than 24 days in lodging the FIR, coupled with the medical report as per which no injury is caused to the victim and the FIR version as per which the report was lodged since the family members refused to marry the applicant with the victim, 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- Ram Pravesh 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