

Court No. - 33

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 32415 of 2020

Applicant :- Sawant @ Chandramohan Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Dhirendra Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Ashwani Kumar Mishra,J.

Heard learned counsel for the accused-applicant, learned A.G.A. for the State and perused the record.

The present bail application has been filed by the accused-applicant in Case Crime No. 102 of 2019, under Sections 376, 452, 506 I.P.C., Police Station Baraur, District Rambai Nagar.

As per the averments made in the first information report the complainant knew the accused-applicant and their marriage was also fixed earlier but the same could not be solemnized whereafter she got married to one Manoj. It is alleged that on 01.11.2019, while the complainant was alone in her house the accused-applicant along with three other persons entered in her house and raped the complainant in the bathroom. The complainant further states that on raising voice the villagers gathered and police was informed on dial 100. The accused-applicant was arrested on the spot and is in jail for the last 18 months.

Learned counsel for the applicant states that the complainant and the applicant knew each other and while four persons were shown as accused in the first information report but the charge-sheet has been submitted only against the accused-applicant. It is urged that the accused-applicant visited the complainant to collect his mobile, which was with the complainant, with her consent but as the neighbors saw the accused-applicant coming to the house and the police was informed whereafter the complainant, as an afterthought, cooked up a false story to protect her pride. No injury is otherwise found on the complainant in the medical examination. It is further contended that the accused-applicant is in jail since 02.11.2019 and has no criminal antecedent. The accused-applicant otherwise is preparing for competitive examinations.

Learned A.G.A. however has opposed the bail application and submits that the accused-applicant was arrested on the spot and his defence that he had gone to collect his mobile phone is not worthy of acceptance.

Considering the above facts and circumstances and that the parties were known to each other and their marriage was earlier fixed, but could not be solemnized, as well as considering the long incarceration of the accused-applicant and the fact that applicant has no past criminal history and the trial may take some more time, it would be appropriate to enlarge the accused-applicant on bail. The above observation shall not be construed as any expression of opinion, on merits, at the stage of trial.

Let the applicant- **Sawant @ Chandramohan Yadav** 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.

(v) The party may file self attested computer generated copy of such order downloaded from the official website of High Court Allahabad. 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/Abhishek Singh