

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11675 of 2022

Applicant :- Narpat

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Vipul Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Siddharth,J.

As per office report dated 28.7.2022, notice issued to the informant has been served personally, but no one has put in appearance to oppose this bail application.

Heard learned counsel for the applicant as well as the learned AGA for the State and perused the material placed on record.

The instant bail application has been filed on behalf of the applicant, **Narpat**, with a prayer to release him on bail in **Case Crime No. 806 of 2021, under Sections 376 IPC and 4 POCSO Act, Police Station Tilhar, District- Shahjahanpur**, during pendency of trial.

There is allegation of enticing away a minor girl with intention to marry and rape against named co-accused, Dharmendra in the FIR. The applicant was not named in the FIR.

Learned counsel for the applicant has submitted that the applicant has been falsely implicated in this case on the basis of the statement of the victim under Section 164 Cr.P.C., which was recorded after a month of the incident. Before the doctor, she has stated that she had gone to Ghaziabad with co-accused, Dharmendra on her own sweet will. The applicant has no criminal history to his credit and he is languishing in jail since 26.11.2021. In case, the applicant is released on bail, he will not misuse the liberty of bail.

Per contra learned A.G.A. has opposed the prayer for bail of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage, therefore, he does not deserves any indulgence. In case the applicant is released on bail he will again indulge in similar activities and will misuse the liberty of bail.

Having considered the submissions of the parties noted above, larger mandate of the Article 21 of the Constitution of India, **Satendra Kumar Antil Vs. C.B.I. & Another, passed in S.L.P. (Crl.) No. 5191 of 2021**, and without expressing any opinion on the merits of the case, let the applicant involved in the aforesaid 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 that :-

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(ii) 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.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A of the Indian Penal Code.

(iv) In case the applicant misuse the liberty of bail during trial and in order to secure his presence, proclamation under Section 82 Cr.P.C. is issued and the applicants fail 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.

(v) 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.

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

Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

Order Date :- 31.8.2022
Ruchi Agrahari