

Court No. - 82

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 40943 of 2021

Applicant : Sanjeet Yadav

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

Counsel for Applicant :- Anwar Ali

Counsel for Opposite Party :- G.A.

Hon'ble Ali Zamin,J.

As per office report, notice is personally served to opposite party no.2 vide order dated 14.12.2021 but no one appears on behalf of the informant.

Heard learned counsel for the applicant, learned A.G.A. for the State and perused the material available on record.

The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.41 of 2021, under Sections 363, 366 I.P.C. and Section 16/17 of POCSO Act, Police Station Dildar Nagar, District Ghazipur.

Learned counsel for the applicant submits that according to the FIR version victim, whose date of birth is 3.8.2007, was studying in Class-X and on 28.2.2021 at about 2:00 p.m. she went away from her house and on search informant found a mobile in the bag of the victim having sim no.9918852714. He next submits that suspicion has been raised on a person having mobile no.9984049341, about enticing the victim for marriage. He further submits that applicant is not named in the FIR. He next submits that as per radiological report, age of the victim is 17 years, in which, two years variation either side is possible. He next submits that victim in her statement recorded under Sections 161 and 164 Cr.P.C. has not levelled allegation against the applicant. He next submits that applicant has been falsely implicated in the case. The applicant is languishing in jail since 8.6.2021.

Per contra, learned A.G.A. opposed the bail prayer of the applicant by contending that there is no reason to falsely implicate the applicant, therefore, he does not deserve any benevolence.

Considering the facts and circumstances of the case as well as submissions made by learned counsel for the parties, age and statements of the victim, without expressing any opinion on the merit of the case, the applicant is entitled for bail, let applicant

Sanjeet Yadav involved in the aforesaid case crime be released on bail on his furnishing a personal bond and two local sureties each of the like amount to the satisfaction of the court concerned, subject to the following conditions :-

(i) The applicant will not tamper with the evidence and pressurize the witnesses during trial.

(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 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.

(iv) 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, 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.

Order Date :- 31.1.2022

m.a.