

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8097 of 2023

Applicant :- Malti

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Civil Sectr. Lko.

Counsel for Applicant :- Ishuk Ali Yusuf

Counsel for Opposite Party :- G.A.

Hon'ble Karunesh Singh Pawar,J.

Heard learned counsel for the applicant and learned A.G.A. for the State as well as perused the record.

The present bail application has been filed by accused-applicant seeking bail in Case Crime No.0238 of 2022, under Sections 363, 366 I.P.C., P.S. Para, District Lucknow.

As per prosecution case in the F.I.R., a missing report was lodged by the complainant.

Learned counsel for the applicant submits that applicant is a married lady having no criminal antecedents. As per the statement of the prosecutrix under Section 161 Cr.P.C., she on her own accord came to the house of the applicant to met her brother-in-law and victim was in relationship with the brother-in-law of the applicant however, while giving statement under Section 161 Cr.P.C. improvement has been made and for the first time allegation of rape has been levelled on the co-accused.

Learned counsel for the applicant submits that applicant has been falsely implicated in this case being relative of the co-accused. He has invited attention of the court towards the statement of independent witness Manju as well as Lajjavati who have stated that on 08.05.2022 in the night about 11:00 p.m., the parents of the victim have beaten her and the victim was thrown out from her home by her parents. Charge-sheet in the case has been filed. It is submitted by learned counsel for the applicant that no offence under Section 363, 366 I.P.C. is made out as the victim on her own accord went away from her home. Applicant undertakes to cooperate in the trial. He submits that the applicant is in jail since 19.10.2022.

Learned A.G.A. has opposed the bail prayer.

On due consideration to the submissions advanced, perusal of the record as also the fact that the applicant is languishing in jail since 19.10.2022; statement of the victim under Sections 161 & 164 Cr.P.C. so also the statement of independent witnesses; applicant is a lady having no criminal history; charge-sheet has been filed, as also the undertaking given by the applicant that she will cooperate in the trial; without expressing any opinion on merits of the case I find it to be a fit case for enlarging the applicant on bail.

Accordingly, the bail application is **allowed**.

Let the applicant **Malti** be released on bail in aforesaid case crime number subject to her furnishing a personal bond and two reliable sureties each in the like amount to the satisfaction of the trial court concerned with the following conditions:

- (i) The applicant will not tamper with the evidence during the trial.
- (ii) The applicant will not pressurize/ intimidate the prosecution witness.
- (iii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.
- (iv) The applicant shall file an undertaking to the effect that she 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.
- (v) The applicant shall remain present before the trial court on each date fixed, either personally or through her counsel. In case of her absence, without sufficient cause, the trial court may proceed against her under Section 229-A of the Indian Penal Code.
- (vi) In case, the applicant misuses the liberty of bail during trial and in order to secure her 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 her, in accordance with law, under Section 174-A of the Indian Penal Code.

Order Date :- 30.6.2023/Saurabh Yadav