

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 26748 of 2023

Applicant :- Ravindra Singh

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

Counsel for Applicant :- Sanjeev Kumar Khare

Counsel for Opposite Party :- G.A., Satya Prakash Singh

Hon'ble Samit Gopal,J.

1. List revised.

2. Heard Sri Sanjeev Kumar Khare, learned counsel for the applicant, Sri Satya Prakash Singh, learned counsel for the first informant and Sri Ajay Singh, learned A.G.A.-I for the State and perused the material on record.

3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant- **Ravindra Singh**, seeking enlargement on bail during trial in connection with Case Crime No. 38 of 2023, under Sections 452, 376 (2) (N), 506 I.P.C. and Section 6 POCSO Act, Police Station Kotwali Nagar Mahoba, District Mahoba.

4. The first information report of the present matter was lodged on 25.01.2023 by Smt.Sunita against the applicant alleging therein that the victim who is her sister's daughter went for studies to the house of her maternal grand-father where she was living since the last one month. The applicant was also living there. On 22.01.2023 at about 2 p.m. the applicant finding her sister's daughter alone in the house came there and did immoral acts with her and threatened her of not telling it to anyone but she told her maternal grand parents and maternal uncle. The first information report was thus lodged under Sections 354, 506 I.P.C.

5. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that the victim was examined by the C.M.O., Mahoba and was opined to be about 17 years of age. It is argued that victim in her statement recorded under Section 161 Cr.P.C. reiterated the version as stated in the first information report. Subsequently in her statement recorded under Section 164 Cr.P.C. she states of the applicant committing rape upon her. He then gave her money and told her to go to Kulpahad where she went and found 3-4 boys and the applicant who was searching for a room but she somehow managed to run away and came back to the house of her maternal aunt. It is argued that subsequently a statement of the victim under Section 161 Cr.P.C. was again recorded where she states that she was raped by the applicant. It is argued that the version of the prosecution is not consistent. The victim is a major girl. The story regarding rape is missing in the first information report and in the statement of the victim recorded under Section 161 Cr.P.C. Learned counsel for the applicant argued that the applicant was initially granted bail by a

co-ordinate Bench of this Court vide order dated 20.04.2023 passed in Criminal Misc. Bail Application No. 12398 of 2023 in the present case crime number for offences under sections 376, 506 I.P.C. and Section 4 POCSO Act. The copy of the said order is annexed as Annexure-9 to the affidavit. It is argued that subsequently after recording of the second statement of the victim under Section 161 Cr.P.C. sections 376 (2)N/452 I.P.C. and Section 6 POCSO Act were added and such the present bail application has been filed in the said sections. The applicant has no criminal history as stated in para 20 of the affidavit and is in jail since 04.02.2023.

6. *Per contra*, learned counsel for the State opposed the prayer for bail.

7. After having heard learned counsel for the parties and perusing the record, it is evident that the applicant was initially granted bail by a co-ordinate Bench of this Court vide order dated 20.04.2023 for offences under sections 376, 506 I.P.C. and Section 4 POCSO Act. During investigation, sections 376 (2)N/452 I.P.C. and Section 6 POCSO Act were added. The prosecution version is not consistent.

8. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicant may be enlarged on bail.

9. Let the applicant- **Ravindra Singh**, be released on bail in the aforesaid case crime number on 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 will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date 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.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. 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., may be issued and if 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 I.P.C.

(v) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) 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 and the trial court may proceed against him under Section 229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

10. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicant to prison.

11. The bail application is **allowed**.

Order Date :- 23.11.2023

AS Rathore

(Samit Gopal,J.)