

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 38111 of 2023

Applicant :- Ravi Sen

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

Counsel for Applicant :- Shivakant Singh, Ram Swaroop (Singh)

Counsel for Opposite Party :- G.A., Mamta Singh

Hon'ble Samit Gopal, J.

1. List revised.
2. Heard Sri Shivakant Singh, learned counsel for the applicant, Ms. Manta Singh, learned panel lawyer of High Court Legal Services Committee, Sri Shashi Kant Pandey, learned AGA for the State and perused the material on record.
3. Notice was issued to the first informant vide order dated 29.8.2023. As per office report dated 18.11.2023 a report from C.J.M. concerned dated 04.11.2023 has been received stating therein that notice has been served personally on the first informant. Despite service no one appears on behalf of the first informant. Service of notice upon the first informant is sufficient.
4. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant Ravi Sen, seeking enlargement on bail during trial in connection with Case Crime No.77 of 2021, under Sections 363, 366, 376 I.P.C. and 3/4 Protection of Children From Sexual Offences Act, registered at P.S. Naraini, District Banda.
5. The F.I.R. of the matter was lodged on 27.7.2021 under Section 363 I.P.C. by Smt. Munni Sen against the applicant alleging therein that on 22.7.2021 the applicant allured her daughter and has enticed her away. She was searched a lot but could not be traced.
6. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that the victim in her statements under Sections 161 and 164 Cr.P.C. has stated that she went from the house own her own to the house of her relative after which she married the applicant. She has a child aged about 06 months and is happy with her marital life. It is argued that the present case is a case of elopement and the victim and the applicant are living as husband and wife. It is further argued that the victim solemnized marriage with the applicant, a certificate of marriage issued by Arya Samaj, ECIL, has been produced before the Court which is annexure no. 7 to the affidavit in support of bail application. It is argued that the applicant has no other criminal antecedents as stated in para-21 of the affidavit and is in jail since 06.3.2023.
7. Per contra, learned State counsel opposed the prayer for bail.
8. After having heard learned counsels for the parties and perusing the record, it is evident that the present case appears to be a case of elopement. The victim is aged about 17 years and 04 months and by giving benefit of variation of two years, she would be major. She states of marrying with the applicant and has a child aged about 06 months from the said relation.
9. 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.

10. Let the applicant- Ravi Sen, 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.

11. 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.

12. The bail application is allowed.

(Samit Gopal,J.)

Order Date :- 14.12.2023

Naresh