

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41904 of 2023

Applicant :- Najim Saifi

Opposite Party :- State of U.P.

Counsel for Applicant :- Abhay Pratap Singh, Rajneesh Kumar

Counsel for Opposite Party :- G.A., Mohit Gautam, Rajesh Kumar Dubey

Hon'ble Vivek Varma, J.

1. Counter affidavit filed by learned AGA is taken on record.
2. Heard learned counsel for the applicant, Sri Rajesh Kumar Dubey, learned counsel for the informant and Sri Sunil Kumar, learned AGA for the State-respondent.
3. The instant bail application under Section 439 Cr.P.C. has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 309 of 2023, under Sections 147, 366, 323, 504, 506, 120-B IPC and 3/5 of Uttar Pradesh Unlawful Prevention of Religious Conversion Act, Police Station Jahangirabad, District Bulandshahr, during the pendency of trial.
4. Counsel for the applicant contends that the applicant has been falsely implicated in the instant case. The victim is a major girl. She had gone voluntarily with the applicant and thereafter on her own she returned to her house. Placing reliance upon the extract of case diary i.e. C.D. No. 30, it is contended that the victim was not produced by the informant before the concerned Magistrate for recording of her statement under Section 164 Cr.P.C. The applicant neither persuaded nor converted the victim to another faith. At present there is no cogent evidence to link the applicant with the offence. The applicant is in jail since 26.06.2023 having no criminal antecedents and in case he is enlarged on bail, he will not misuse the said liberty.
5. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
6. Having heard counsel for the parties and having perused the record, this Court prima facie finds that the victim in her statement

under Section 161 Cr.P.C. stated that she is aged 22 years. At this stage, there is no substantive evidence against the applicant that he persuaded the victim or converted her to another faith. Further, the applicant has remained confined for more than four months and after submission of the charge-sheet there is no hope of early conclusion of trial, more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper with the evidence or delay the trial or intimidate the witness, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let applicant, ***Najim Saifi***, involved in the aforesaid case 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 subject to the conditions that he:

- (i) shall appear on the date fixed by the trial court;
- (ii) shall not tamper with the prosecution evidence; and,
- (iii) shall not pressurize the prosecution witnesses.

8. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 16.11.2023
Prajapati