

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42336 of 2023

Applicant :- Prince Soni

Opposite Party :- State of U.P.

Counsel for Applicant :- Abhinava Jayaswal

Counsel for Opposite Party :- G.A.,Aditya Kumar Rai

Hon'ble Samit Gopal,J.

1. Heard Sri Abhinava Jayaswal, learned counsel for the applicant, Sri Aditya Kumar Rai, learned counsel for the first informant and Sri Shashidhar Pandey, learned counsel for the State and perused the material on record.

2. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant- **Prince Soni**, seeking enlargement on bail during trial in connection with Case Crime No. 0914 of 2023, under Section 376 I.P.C., Police Station Indirapuram, District Ghaziabad.

3. The prosecution case on the basis of first information report lodged on 06.07.2023 by the victim herself against the applicant is that she was working with the applicant who made her acquainted with his family members through video calls and there was some discussion between them for marriage. The applicant took her to a hotel for discussing about marriage and established physical relation. He made physical relation repeated times with her. Then on her insistence to marry, he refused. The first information report has thus been lodged.

4. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that the victim is a major girl aged about 25 years. The relationship was a consensual relationship. There was discussion between the parties with regard to marriage but the same could not materialize. While placing paragraph 50 of the affidavit in support of bail application learned counsel argued that the applicant has made a true promise of marriage and still stands by it. It is argued that the said affidavit has been sworn by the father of the applicant and the said paragraph is on his personal knowledge which is placed seriously and strongly. It is argued that the applicant has no criminal history as stated in para 58 of the affidavit and is in jail since 07.07.2023.

5. *Per contra*, learned counsel for the first informant and learned counsel for the State have vehemently opposed the prayer for bail. It is argued that the applicant is named in the first information report and there are allegations against him. It is argued that there are chances of the applicant not co-operating in the trial, leaving the country and going out. It is argued that the bail application thus deserves to be rejected.

6. After having heard learned counsel for the parties and perusing the record, it is evident that the victim is a major girl. The relationship was on some discussion of marriage between the parties which could not materialize.

7. 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.

8. Let the applicant- **Prince Soni**, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties (**one of the sureties will be of family members and the other will be of a local person**) 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.

9. 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.

10. The bail application is **allowed**.

11. Since there is an apprehension of the applicant leaving the country and going away, it is provided that the applicant shall, if possess any passport, deposit the same before the trial court and shall not leave the country without permission of the court concerned.

Order Date :- 17.10.2023

AS Rathore

(Samit Gopal,J.)