

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45081 of 2023

Applicant :- Sonu

Opposite Party :- State of U.P.

Counsel for Applicant :- Anand Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State-opposite party.
2. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 843 of 2015, under Sections 363, 366 I.P.C., Police Station Majhola, District Moradabad during the pendency of the trial.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the instant case. The victim in her statements under Sections 161 and 164 Cr.P.C. stated that she had gone with co-accused Aalim voluntarily and entered into wedlock with him. As per the medical examination report, the victim is above 18 years. There is no allegation of abduction or kidnapping against the applicant. It is next contended that identically placed co-accused Nasir and Irshad have been granted bail by this Court in Criminal Misc. Bail Application Nos. 25282 of 2017, Nasir v. State of U.P., and 13505 of 2023, Ishad v. State of U.P., vide orders dated 01.08.2017 and 27.03.2023 respectively. Prior to the instant case the applicant does not have any criminal history, however, after his arrest he has been implicated in another case. The applicant is in jail since 10.09.2023 and if he is released on bail, he will not misuse the said liberty.
4. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
5. Having heard learned counsel for the parties and after perusal of the record, this Court prima facie finds that the victim in her statements under Sections 161 and 164 Cr.P.C. stated that she had gone with co-accused Aalim voluntarily and entered into wedlock with him. There is no allegation of abduction or kidnapping

against the applicant. Identically placed co-accused Nasir and Irshad have been granted bail by this Court. Moreover, the applicant has remained confined for more than one and half month and after submission of the charge-sheet there is no hope of early conclusion of trial, and 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, therefore, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant- Sonu, 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 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.

7. 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 :- 2.11.2023

SKT/-