

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45251 of 2023

Applicant :- Shivam

Opposite Party :- State of U.P.

Counsel for Applicant :- Prashant Ji Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma,J.

1. Heard Sri Prashant Ji Pandey, learned counsel for the applicant, Sri Pankaj Kumar Tripathi, learned AGA for the State and perused the record.

2. In compliance of the order dated 09.11.2023, Sahab Singh, investigating officer of the concerned case, has appeared and has filed his personal affidavit which is taken on record.

3. Learned AGA concedes that the victim had left the parenthood on 09.06.2023 on which date she was aged about 17 years, 11 months and 24 days but she solemnized marriage with the accused on 16.06.2023 and physical relation was established between both of them while the victim has attained the age of majority on 15.06.2023. Since no cohabitation had taken place prior to her marriage i.e. 16.06.2023 that is why the investigating officer did not mention POCSO Act and Section 376 IPC.

4. This Court concurs with the submissions advanced by the learned AGA. It is directed that the appearance of the investigating officer, present today in the Court, is exempted.

5. The instant bail application has been filed with a prayer to enlarge the applicant on bail in Case Crime No.132 of 2023, under Sections 363, 366 IPC, Police Station Adarsh Mandi Shamli, District Shamli, during the pendency of trial.

6. It is argued by the learned counsel for the applicant that the applicant has not committed any offence as alleged by the prosecution. It is also contended that the victim in her statement recorded under Sections 161 and 164 CrPC has not supported the prosecution version and has stated that she wanted to live with the accused. It has also been contended that the victim has denied to undergo the medical examination, internal or external. There is no likelihood of his abscondence or tampering with the

evidence. The applicant is languishing in jail since 04.08.2023. In case the applicant is released on bail, he will not misuse the said liberty.

7. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions advanced by the counsel for the applicant.

8. Having regard to the facts, circumstances and the submissions made but without commenting on merits of the case, this Court is of opinion that the applicant is entitled to be enlarged on bail. Accordingly, the bail application is allowed.

9. Let the applicant - **Shivam**, involved in the aforesaid case crime 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;

(iii) shall not pressurize the prosecution witnesses.

10. 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 :- 30.11.2023

Shahroz