

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45543 of 2023

Applicant :- Amarjeet Yadav @ Piyush

Opposite Party :- State of U.P.

Counsel for Applicant :- Harendra Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal,J.

1. List revised.
2. Heard Sri Harendra Yadav, learned counsel for the applicant, Sri Bare Lal Bind, learned AGA for the State and perused the material on record.
3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant Amarjeet Yadav @ Piyush, seeking enlargement on bail during trial in connection with Case Crime No. 172 of 2023, under Sections 366, 344, 376, 323, 506 I.P.C. registered at P.S. Kopaganj, District Mau.
4. The F.I.R. of the matter was lodged on 09.6.2023 by the victim herself against the applicant alleging therein that she is aged about 19 years. She met the applicant through her friend. The applicant, on false promise to marry, established physical with her. He kept her in the house of his relative at Mumbai and establishing physical relationship continuously. He then started torturing her. She the came back to her house somehow and told about it to her parents. On 09.6.2023 at about 03:30 a.m. the applicant came to her house and forcibly tried to establish physical relationship with her, on which she raised a shout then the applicant ran away.
5. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that on the own showing in the F.I.R. the victim is major girl and there was some discussion of marriage between them and the sexual relationship was consensual. It is argued that subsequently the factum of marriage could not materialize and hence the F.I.R. has been lodged against the applicant. It is argued that even the victim in her statement recorded under Section 161 Cr.P.C. stated that she lived in the house of a relative of the applicant at Mumbai for 01 month but there was no resistance whatsoever by her. It is argued that the charge

sheet in the matter has been submitted and cognizance has been taken by the concerned trial court and as such there are no chances of the applicant tampering with the evidence or not cooperating in the investigation. It is argued that the applicant has no other criminal antecedents as stated in para-20 of the affidavit and is in jail since 10.6.2023.

6. Per contra, learned State counsel opposed the prayer for bail but could not dispute the arguments as aforesaid.

7. After having heard learned counsels for the parties and perusing the record, it is evident that on the own showing in the F.I.R. the victim is major girl and there was some discussion of marriage between them. Sexual relationship between them was consensual. She lived in the house of a relative of the applicant at Mumbai for 01 month but she did not raise any objection.

8. 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.

9. Let the applicant- Amarjeet Yadav @ Piyush, 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.

10. 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.

11. The bail application is allowed.

(Samit Gopal,J.)

Order Date :- 30.10.2023

Naresh