

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 56023 of 2022

Applicant :- Ramrahis

Opposite Party :- State of U.P.

Counsel for Applicant :- Balendra Pratap Singh, Ghanshyam Das Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Supplementary affidavit filed today on behalf of the applicant, which is taken on record.
2. Heard Sri Ghanshyam Das Mishra and Sri B.P. Singh, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 128 of 2022, under Sections 376, 506 IPC, Police Station Jalalabad, District Shahajahanpur, during pendency of the trial in the court below.
4. Learned counsel for the applicant submitted that this is second bail application filed on behalf of the applicant and his first bail application has been dismissed by this Court on merit by this Court vide order dated 11.8.2022 and he is pressing the instant second bail application on the ground that he is in jail since 22.3.2022 i.e. more than one and half years and till date, victim of the case could not appear before the trial court in spite of the repeated order passed by the trial court.
5. He further submitted that from the order dated 1.8.2022 passed by the trial court, it appears that victim has already left her native place and her whereabouts are not known and therefore, it appears that in near future, there is no possibility that her statement can be recorded and therefore, considering the peculiar facts and circumstances of the case, applicant who is in jail for more than one and half years may be released on bail.
6. He further submitted that although it is a second bail application but it was a case in which admittedly, victim is major lady and she was consenting party and as per allegation applicant under the pretext to perform marriage, sexually exploited her.

7. Per contra, learned AGA opposed the prayer for bail and submitted that this is second bail application filed on behalf of the applicant and his first bail application was dismissed after considering the entire facts of the case.

8. However, he could not dispute the fact that from the perusal of the order sheet it appears that in spite of the repeated orders passed by the trial court victim is not turning before the trial court and as per, police report he is not residing at her given address and it appears that she left her native place.

9. He further could not dispute that applicant is having no criminal history and he is in jail in the present matter for more than one and half years.

10. I have heard learned counsel for the parties and perused the record of the case.

11. However, this is second bail application filed on behalf of the applicant and first bail application was dismissed on merit by this Court but it appears that applicant is in jail for more than one and half years and till date, not even the testimony of victim could be recorded and from the order-sheet, it appears that victim is untraceable and she had left her native place and in spite of repeated order passed by trial court, she is not turning before the trial court, therefore, I find force in the argument advanced by learned counsel for the applicant that applicant cannot be detained in jail for indefinite period and there is no hope that in near future, victim will appear before the trial court.

12. Further, from the perusal of the record of the case it appears that it was a case of sexual exploitation under false promise of marriage and admittedly, victim is major girl.

13. Therefore, considering the facts and circumstances of the case, discussed above, in my view, applicant is entitled to be released on bail.

14. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is allowed.

15. Let the applicant- **Ramrahis**, be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless her personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade her from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

16. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

17. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 28.10.2023

Ankita