

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46056 of 2023

Applicant :- Kuldeep Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Anupam Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma,J.

1. Heard Sri Anupam Tripathi, learned counsel for the applicant, learned AGA for the State and perused the record.
2. By means of the present bail application, the applicant seeks bail in Case Crime No.370 of 2023, under Section 366 IPC, Police Station Katra, District Shahjahanpur, during the pendency of trial.
3. It is argued by the learned counsel for the applicant that though in the FIR the victim has been shown to be minor but as per her School Leaving Certificate her date of birth is 05.02.2003 thus on the date of occurrence i.e. 08.08.2023, the victim was an adult lady. From the side of the applicant photocopy of some photographs have been filed which has been annexed as annexure-2 of the affidavit filed in support of the bail application which shows that the victim is voluntarily garlanding the accused on the occasion of alleged marriage ceremony. As per her statement under Section 161 CrPC the victim has voluntarily left her house. She has stated herself to be 21 years of age and has also admitted that she loves the accused. She has also stated that she solemnized marriage with the applicant in Arya Samaj Mandir at Allahabad (Prayagraj) and started living as wife and husband. When they both were going to Bareilly, they were arrested at Katra Chauraha

by the police. She has also wished to go with the accused. From perusal of the medical report it is very much established that the marriage between the accused applicant has been consummated. There is no criminal history of the applicant. There is no likelihood of his abscondence or tampering with the evidence. The applicant is languishing in jail since 08.09.2023. In case, the applicant is released on bail, he will not misuse the said liberty.

4. Learned AGA has opposed the bail application and heavily pressed the statement of the victim recorded under Section 164 CrPC in which she has stated to have been enticed by the accused and was taken to Delhi where she came to know that the applicant was already married and also he has a female child which is contradicted by the counsel for the applicant who has stated that in such circumstance the remedy is available to the victim to approach the appropriate forum under Section 494 IPC. Since the victim was an adult lady and she willingly left her parental house and travelled several places but she nowhere made any alarm, therefore, it cannot be said that the victim, being an adult lady, was enticed away or allured by the applicant.

5. Considering the facts, circumstances of the case and the submission made but without commenting on the 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.

6. Let the applicant - **Kuldeep Yadav**, 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.

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 :- 1.11.2023

Shahroz