

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46660 of 2023

Applicant :- Hony Sagar

Opposite Party :- State of U.P.

Counsel for Applicant :- Dharmendra Kumar Patel

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard Sri C.P. Pandey, Advocate, holding brief of Sri Dharmendra Kumar Patel, learned counsel for the applicant, and Sri Neeraj Kumar Sharma, 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. 380 of 2023, under Sections 363, 366 I.P.C., Police Station Sambhal, District Sambhal 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 incident is alleged to have occurred on 12.09.2023 and the first information report was lodged on 14.09.2023. The delay is fatal to the prosecution case. There are inconsistencies in the statements of the victim under Sections 161 and 164 Cr.P.C. It is next contended that it is highly improbable that the applicant would take the victim forcibly to Delhi and thereafter to Amritsar without any alarm being raised by the victim. The victim is a major girl. She was in relationship with the applicant and had gone voluntarily with the applicant. The applicant is in jail since 21.09.2023 having no criminal history 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 there are inconsistencies in the statements of the victim under Sections 161 and 164 Cr.P.C. The said inconsistencies discredit the prosecution case. At this stage there is no substantive evidence against the applicant. The applicant has no criminal

antecedents. Moreover, the applicant has remained confined for almost two months 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- Hony Sagar, 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 :- 22.11.2023
SKT/-