

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49515 of 2023

Applicant :- Akbar Ali @ Ramesh Verma

Opposite Party :- State of U.P.

Counsel for Applicant :- Deepak Kumar Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Deepak Kumar Tripathi, learned counsel for the applicant and Sri Shatrughna Yadav, learned AGA for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 759 of 2023, under Sections 376, 506 IPC, Police Station- Shahpur, District- Gorakhpur, during pendency of the trial in the court below.

3. FIR of the present case was lodged against applicant on 08.10.2023 under Sections 376, 506 IPC and according to the FIR, when in the year 2008, husband of the informant missed somewhere then she started living with the applicant after enticement of the applicant as his wife and in July, 2023 suddenly applicant disappeared and informant came to know that actually real name of the applicant is Akbar Ali and by playing fraud, he, for last 15 years, was continuously sexually exploiting her by concealing his religion. It is further mentioned in the FIR that applicant is continuously threatening the informant to embrace Islam.

4. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and even as per the FIR and statements of the victim recorded under Sections 161 Cr.P.C. and 164 Cr.P.C., victim and applicant were residing as husband and wife for last 15 years but it appears, subsequently some dispute arose between both of them and thereafter FIR of the present case was lodged.

5. He further submitted that it is hard to believe that informant was residing with the applicant for last 15 years but she could not become aware that applicant was Muslim. He further submitted

that from the FIR and statements of the victim, her consent is quite apparent.

6. He further submitted that applicant is not having any criminal history and he is in jail since 08.10.2023.

7. Per contra, learned AGA although, opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

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

9. Considering the fact that even as per the FIR and statements of the victim, who is major and married lady, it appears that she was residing alongwith the applicant for last 15 years and from the record, her consent is apparent, in my view, applicant is entitled to be released on bail.

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

11. Let the applicant- **Akbar Ali @ Ramesh Verma** 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 his 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 him 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.

12. 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.

13. 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 :- 22.11.2023
KK Patel