Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53067 of 2023

Applicant :- Arvind Kumar
Opposite Party :- State Of U.P. And 3 Others
Counsel for Applicant :- Amit Kumar Srivastava
Counsel for Opposite Party :- G.A.

Hon'ble Siddharth,J.

List of fresh cases revised.Learned A.G.A. has informed that notice has been served upon the informant but no one appears on his behalf.

Heard learned counsel for the applicant and learned A.G.A.

The instant bail application has been filed on behalf of the applicant, Arvind Kumar, with a prayer to release him on bail in Case Crime No. 349 of 2022, under Sections 376-A,B, 342 IPC and section 5M/6 of POCSO Act Police Station Hafizganj, District- Bareilly, during pendency of trial.

There are allegations against the applicant of committing offences of rape and unlawful confinement of minor girl besides offence under section 5M/6 of POCSO Act.Learned counsel for the applicant has submitted that victim has been examined as P.W.2 before the trial court where she has not made any allegation of rape against the applicant.She has only stated that applicant took her in a room and put some medicine on her private part and asked her to go. The applicant is in jail since 25.7.2022 and has no criminal history.

Learned A.G.A. has opposed the bail prayer of the applicant but could not dispute the aforesaid facts.

Keeping in view the nature of the offence, evidence, complicity of the accused; submissions of the learned counsel for the parties noted above; finding force in the submissions made by the learned counsel for the applicant; keeping view the

uncertainty regarding conclusion of trial; one sided investigation by police, ignoring the case of accused side; applicant being under-trial having fundamental right to speedy trial; larger mandate of the Article 21 of the Constitution of India; considering the dictum of Apex Court in the recent judgment dated 11.07.2022 of the Apex Court in the case of ***Satendra Kumar Antil vs. C.B.I., passed in S.L.P (Crl.) No. 5191 of 2021***; considering 5-6 times overcrowding in jails over and above their capacity by the under trials and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed

Let the applicant 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 following conditions. Further, before issuing the release order, the sureties be verified.

1. The applicant shall not tamper with the prosecution evidence by intimidating/ pressurizing the witnesses, during the investigation or trial.

2. The applicant shall cooperate in the trial sincerely without seeking any adjournment.

3. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

4. That the applicant shall not, directly or indirectly, make any 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 to any police officer;

5. The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence and 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

to ensure presence of the applicant.

6. The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of his bail and proceed against him in accordance with law.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

The trial court is directed to conclude the trial within a period six months.

The registrar(Compliance)of this court is directed to communicate this order to the trial court for compliance.

Order Date :- 16.12.2023
Atul kr. sri.

Digitally signed by :-
ATUL KUMAR SRIVASTAVA
High Court of Judicature at Allahabad