

Court No. - 8

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 219 of 2023

Applicant :- Nadir Jung

Opposite Party :- State Of U.P. Thru. Prin. Secy. Deptt. Home Lko. And 3 Others

Counsel for Applicant :- Shailendra Pathak,Avanindra Singh Parihar

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh, J.

1. Heard learned counsel for the accused-applicant as well as Sri Manish Vikram Singh Chauhan, learned A.G.A. and perused the record.

2. This is the third bail application. First and second bail applications got rejected by this Court vide orders dated 28.1.2021 and 15.9.2022 passed in Criminal Misc. Bail Application Nos.1002 of 2021 and 1446 of 2022.

3. The present application under Section 439 Cr.P.C. has been filed seeking bail in FIR/Case Crime No.380 of 2020, under Sections 452, 506 and 376-D IPC and Section 3/4 POCSO Act, Police Station Payagpur, District Bahraich.

4. This Court while rejecting the second bail application of the accused-applicant, passed the following order:-

"1. Heard learned counsel for the applicant, learned A.G.A. and perused the record.

2. This is the second bail application. First bail application was rejected by this Court vide order dated 28.1.2021 passed in Criminal Mic. Bail Application No.1002 of 2021.

3. The present application under Section 439 Cr.P.C. has been filed seeking bail in FIR No.380 of 2020, under Sections 363, 366-A, 370, 376-D and 506 IPC and Section 3/4 POCSO Act, Police Station Payagpur, District Bahraich.

4.This Court while rejecting the first bail application of the accused-applicant, passed the following order:-

"1. Heard learned counsel for the accused-applicant as well as learned Additional Government Advocate and gone through the entire record.

2. By means of this application under Section 439 CrPC, the accused-applicant seeks bail in FIR No.0380 of 2020, under Sections 363, 366-A, 370, 376-D and 506 IPC and Section 3/4 POCSO Act lodged at Police Station Payagpur, District Bahraich.

It is alleged that the prosecutrix, aged around 16 years, got missing from her house in the night of 20th October, 2020. The prosecutrix was recovered and, her statement

under Sections 161 and 164 CrPC were recorded. In her statement recorded under Section 164 CrPC, the prosecutrix has said that she was 16 years of age; the present accused-applicant was in touch with her; he forced her to write a letter; the accused-applicant threatened her that if she would not go with him, he would kill her and her family members; on 19.10.2020, the accused-applicant made a call to the prosecutrix at around 11.30 p.m; the prosecutrix came out of the house and, found co-accused Nadeem standing there; the prosecutrix contacted the accused-applicant, who asked the prosecutrix to come with co-accused, Nadeem; Nadeem took the prosecutrix on the motorcycle and came to Lucknow where he raped her repeatedly; thereafter, the prosecutrix was taken to Sonipat, Haryana from Delhi where accused-applicant, co-accused, Nadeem and Adil raped her repeatedly.

3. Considering the age of the prosecutrix, role of the accused-applicant and statement of the victim recorded under Section 164 CrPC, I don not find it a fit case for enlarging the accused-applicant on bail at this stage.

4. Accordingly, the prayer for bail is refused and, the application is rejected."

5. Considering the aforesaid order and taking into consideration the fact that there is no changed circumstance, this Court does not find any ground to enlarge the accused-applicant on bail at this stage.

6. Bail application is accordingly rejected.

7. However, if the prosecutrix does not support the prosecution case in her evidence before the court, the accused-applicant may revive the prayer for bail before this Court by filing a fresh bail application."

5. There is no changed circumstance, which warrant this Court to enlarge the accused-applicant on bail.

6. Bail application is accordingly **rejected**.

7. However, the trial court is directed to conclude the trial within a period of six months as the accused-applicant has been in jail since 6.11.2020.

Order Date :- 12.7.2023

Rao/-