

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1713 of 2023

Applicant :- Bhaskar

Opposite Party :- State Of U.P. Thru.Addl. Chief Secy. Home And 3 Others

Counsel for Applicant :- Gulam Mustafa

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Vide communication dated 19.04.2023 of the Chief Judicial Magistrate, Unnao, it is informed that opposite party no.2 has been served, however, he is not represented.

2. Heard Shri Gulam Mustafa, learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.

3. This bail application has been moved by the accused/applicant- **Bhaskar** for grant of bail, in Case Crime No.369 of 2021, under Sections 363, 376, 366 I.P.C., and Section 5 (J) (ii)/6 P.O.C.S.O. Act, Police Station Safipur, District Unnao, during trial.

4. Learned counsel for the accused-applicant while pressing the bail application submits that the applicant has been falsely implicated in this case and he has not committed any offence as claimed by the prosecution.

5. It is further submitted that correct facts are to the tune that the victim/prosecutrix and the applicant was having a long standing relationship and they decided to solemnize marriage and in furtherance of the same they solemnized marriage in a temple and the prosecutrix in this process had accompanied the applicant and they started living as husband and wife and in the meantime, the victim got pregnant and gave birth to a boy, who had unfortunately died soon after his birth.

6. While drawing attention of this Court towards the statement of the prosecutrix recorded under Sections 161 and 164 Cr.P.C., it is vehemently submitted on behalf of the applicant that the victim has not uttered any allegation against the applicant and though at the date and time of the alleged incident, prosecutrix was aged about 16 years, but now she has attained the age of

majority and now is living with the applicant and after being released on interim bail, the applicant has also solemnized marriage again with the prosecutrix on 11.07.2023 and got the same also registered on 12.07.2023 and a certificate in this regard has also been issued. Invitation card of the marriage ceremony of the applicant with the prosecutrix as well as a copy of the certificate of registration of marriage has been placed at Annexure Nos.1 and 2 to the supplementary affidavit dated 21.08.2023.

7. It is further submitted that since the victim, who is now major, has solemnized marriage with the applicant and now they are living a peaceful matrimonial life, detention of the applicant again in this case may ruin matrimonial prospects of the applicant as well as of the prosecutrix.

8. It is next submitted that applicant was in jail in this case since 05.11.2022 before being released on interim bail and after his release on interim bail, he has abide all the conditions, which have been imposed by the Coordinate Bench of this Court vide order dated 11.05.2023 and undertakes that he will remain present before the trial court and cooperate in early disposal of the case.

9. Learned A.G.A. on the other hand submits that the prosecutrix is now major and they also solemnized marriage, however, the same would not be sufficient to exonerate the applicant.

10. Having heard learned counsel for the parties and having perused the record, it is evident that Coordinate Bench of this Court in this case on 11.05.2023 has released the applicant on interim bail for three months. Admittedly the victim, who is also present before this Court today along with the applicant, had not alleged any imputation against the applicant in her statement recorded under Sections 161 and 164 Cr.P.C. and the only hurdle, which appears to be, was tender age of the prosecutrix, perhaps on the basis of which charge sheet was also filed against the applicant. It was alleged by the victim in her statements that she has solemnized marriage with the applicant and after release of the applicant on interim bail, they have again solemnized marriage properly and same also appears to have been registered and a copy of the registration certificate issued by the Marriage Registration Officer has been placed on record. The presence of the applicant could be secured before the trial court by placing adequate conditions.

11. Having regard to the overall facts and circumstances of the case and keeping in view the nature of the offence, evidence,

complicity of the accused, severity of punishment, submissions of the learned counsel for the parties as well as keeping in view the fact that the marriage with the applicant has been acknowledged by the victim, who is present before this Court and stated that she is living happily with the applicant and without expressing any opinion on the merits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is thus **allowed**.

12. Let the accused/applicant- **Bhaskar** involved in above-mentioned case, be released on bail on his furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

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

(ii) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

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

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

14. Identity, status and residence proof of the applicant and sureties be verified by the Court concerned before the bonds are accepted.

15. Observations made herein-above by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression of this Court on the merits of the case.

16. The discretion of the releasing the applicant on the same sureties, which might have been filed by the applicant in pursuance of the order of this Court dated 11.05.2023, would always be available to the trial court.

Order Date :- 10.10.2023

Anupam S/-