

Court No. - 15

Case :- CRIMINAL APPEAL No. - 624 of 2023

Appellant :- Ram Shabd @ Pakelu

Respondent :- State Of U.P. Thru. Prin. Secy. / Addl. Chief Secy. Deptt. Of Home, Lko. And Another

Counsel for Appellant :- Avinash Singh, Mohd. Waris Farooqui

Counsel for Respondent :- G.A., Awadhesh Kumar Singh

Hon'ble Shamim Ahmed, J.

(Order on memo of appeal)

Heard learned counsel for the appellant and learned A.G.A. for the State alongwith learned counsel for the opposite party no.2.

This appeal was already admitted vide order dated 28.02.2023 and lower court record was summoned, which is available on record.

List this appeal in the due course of hearing.

(Order on Criminal Misc. Bail Application No. 1/2023)

Heard learned counsel for the appellant and learned A.G.A. for the State alongwith learned counsel for the opposite party no.2.

Notice was ordered to be issued upon opposite party no.2, who is represented by Sri Awadhesh Kumar Singh, Advocate. However, till date neither any counter affidavit nor objections have been filed by the opposite party no.2. Since learned counsel for the appellant presses urgency in the matter, as such, this Court has no other option but to proceed in the matter.

The appellant/applicant, Ram Shabd @ Pakelu, seeks bail in this appeal, which has been preferred against the judgment and order dated 19.01.2023 passed by learned Special Judge (POCSO Act) / Additional Sessions Judge, Balarampur in Special Trial No.04 of 2017, Case Crime No.639 of 2017, convicting and sentencing the appellant under Section 363 I.P.C. for five years rigorous imprisonment alongwith fine of Rs.5,000/-, under Section 366 I.P.C. for seven years rigorous imprisonment alongwith fine of Rs.10,000/- and under Section 18 of the POCSO Act for five years rigorous imprisonment alongwith fine of Rs.5,000/- with default stipulations.

Learned counsel for the appellant submits that appellant was on bail during course of trial which was never misused by him.

This averment also finds place in para 26 of the affidavit filed in support of the bail application. There is no likelihood of this appeal to be heard at an early date or in near future in the wake of heavy pendency of cases in the court.

Several other submissions in order to demonstrate the falsity of the allegations made against the appellant have also been placed forth before the court. The circumstances which, according to the counsel, led to the false implication of the accused have also been touched upon at length. It has been assured on behalf of the appellant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required.

Counsel has attempted to point out several other inherent infirmities in the evidence and also the elements of improbability contained therein and it has been argued that with such infirmities on record there is a reasonable prospect of this appeal being allowed after final hearing takes place.

Learned A.G.A. as well as learned counsel for the opposite party no.2 have opposed the prayer for bail.

After perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence, the period of detention already undergone, the unlikelihood of early hearing and conclusion of appeal, this Court is of the view that the appellant may be enlarged on bail.

Let the appellant- **Ram Shabd @ Pakelu** convicted and sentenced in Special Trial No.04 of 2017, Case Crime No.639 of 2017, under Section 363 I.P.C. for five years rigorous imprisonment alongwith fine of Rs.5,000/-, under Section 366 I.P.C. for seven years rigorous imprisonment alongwith fine of Rs.10,000/- and under Section 18 of the POCSO Act for five years rigorous imprisonment alongwith fine of Rs.5,000/- with default stipulations, be released on bail on his executing personal bond and two sureties each in the like amount to the satisfaction of the court concerned.

It is made clear that fine, if any, is not stayed and the same be deposited by the appellant within two months after he is enlarged on bail.

On acceptance of bail bond and personal bond, the lower court concerned shall transmit the photostat copies thereof to this Court for being kept on the record.

The party shall file computer generated copy of such order downloaded from the official website of High Court, Allahabad or certified copy issued from the Registry of the High Court, Allahabad.

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court, Allahabad and shall make a declaration of such verification in writing.

Order Date :- 17.10.2023

Saurabh