

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 4880 of 2023

Applicant :- Ramji Verma

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt., Lko.

Counsel for Applicant :- Harish Chandra Yadav, Ram Suphal

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard learned counsel for the applicant, Sri Ramesh, learned A.G.A. for the State and perused record.
2. This second bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.70 of 2021 under Section 376, 323 IPC, PS Tanda, district Ambedkar Nagar.
3. The first bail application Crl. Misc. Bail Application No.12941 of 2021 was rejected by this Court on 4.1.2023.
4. Learned counsel for the applicant has submitted that this Court had passed order on 19.4.2023 by which the interim bail was granted to the applicant and he is on interim bail. The said order of interim bail dated 19.4.2023 is quoted below:-

"Heard Sri Harish Chandra Yadav, the learned counsel for the applicant and Sri Manish Kumar Pandey, the learned A.G.A.-I for the State and perused the record.

This is the second bail application seeking release of the applicant on bail in Case Crime No. 70 of 2021, under Sections 376, 323 I.P.C., registered at Police Station Tanda, District Ambedkar Nagar.

The first bail application of the applicant has been dismissed as not pressed by Hon'ble Justice Mohd. Faiz Alam Khan, vide order dated 01.01.2023, passed in Criminal Misc. Bail Application No. 12941 of 2021.

The aforesaid case has been registered on the basis of F.I.R. lodged on 06.04.2021, stating that the applicant physically exploited the informant under a false promise of marrying her and the informant became pregnant. Thereafter, the applicant declined to marry the informant and he tried to marry some other girl.

In the affidavit filed in support of the bail application, it has been stated that initially the applicant's family members were not agreeable

for the marriage, but now they are ready to perform the marriage of the applicant with the informant and, as such, now there is no hurdle in marrying of the applicant with the informant.

It has further been stated in the affidavit that the applicant has no criminal history and he is languishing in jail since 07.04.2021.

Having considered the aforesaid facts and circumstances of the case and keeping in view the fact the interests of the child of the informant and the applicant, it is in the interest of justice to release the applicant on interim bail so as to enable him to marry the informant and submit proof of the marriage before this Court.

Accordingly, this bail application stands allowed."

5. In compliance of the earlier order dated 19.4.2023, supplementary affidavit dated 24.6.2023 had been filed annexing therewith the proof of marriage and the Marriage Registration Certificate of the prosecutrix and the applicant as Annexure No.SA-2 and SA-3, which indicate that applicant and the prosecutrix have performed their marriage. It has been mentioned in the supplementary affidavit that the applicant and the prosecutrix have performed marriage as per Hindu rites and they are living as wife and husband.

6. Learned counsel for the applicant has submitted that prior to the interim bail, the prosecutrix had given birth to a male child who is now one year old. Learned counsel for the applicant has submitted no useful purpose would be served in case the applicant is sent to Jail because the applicant and the prosecutrix are living now as wife and husband. The applicant has no other criminal history.

7. On the other hand, learned A.G.A. has opposed the bail but could not dispute the aforesaid facts that the prosecutrix and applicant have performed marriage, and they are living together as husband and wife and they have a male child who is now, one year old born out of their physical relation prior to the interim bail.

8. Considering over all facts and circumstances of the case, the argument that marriage has been performed between the applicant and the prosecutrix, and they are living as husband and wife, the argument that the prosecutrix has given birth to a male child who is now one year old and the prosecutrix is major, it is a fit case for bail.

9. Let the applicant, Ramji Verma be released on bail in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when 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.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) 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 absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

10. It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The Trial Court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything in this order.

Order Date :- 27.10.2023

Rajneesh JR-PS)