

Court No. - 15

Case :- CRIMINAL APPEAL No. - 1253 of 2023

Appellant :- Sunil

Respondent :- State Of U.P. Thru. Prin. Secy. Home Civil Secrett. Lko.
And 3 Others

Counsel for Appellant :- Saurabh Srivastava

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

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

Heard Sri Saurabh Srivastava, the learned counsel for the appellant and Sri Ashok Kumar Singh, learned A.G.A. for the State and perused the record.

The appellant/ applicant, **Sunil**, seeks bail in this appeal, which has been preferred against the judgment and order dated 07-04-2023 passed by the learned Additional District and Sessions Judge / POCSO Act 3rd, Raebareli, in Criminal Case No. 65 of 2014 arising out of Case Crime No. 398 of 2014, under Sections 363, 366 I.P.C. and Section 4 POCSO Act, State Vs. Sunil, Police Station Mohan Ganj, District Amethi whereby appellant has been convicted and sentenced under Section 363 I.P.C. for five years rigorous imprisonment and fine of Rs.3,000/- and for offence under section 366 I.P.C. for seven years rigorous imprisonment and fine of Rs.5,000/- and further under section 4 of POCSO Act for ten years rigorous imprisonment with fine of Rs.10,000/- with default stipulation.

This Court vide order dated 20-04-2023 admitted this appeal and notice were issued to the opposite party no. 2.

As per office report dated 06-06-2023, the notice has already been served on opposite party No.2, but till date no counter affidavit has been filed nor any counsel represent on behalf of opposite party No.2.

Learned A.G.A. has filed counter affidavit and in reply learned counsel for the appellant has also filed rejoinder affidavit which is on record.

Learned counsel for the appellant further submits that appellant was on bail during course of trial which was never misused by him. 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. has 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- **Sunil** convicted and sentenced in Criminal Case No. 65 of 2014 arising out of Case Crime No. 398 of 2014, under Sections 363, 366 I.P.C. and Section 4 of POCSO Act, State Vs. Sunil, Police Station Mohan Ganj, District Amethi be released on bail on his executing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned.

It is made clear that fine 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 on memo of appeal)

List this appeal in the due course for final hearing.

Order Date :- 11.10.2023

Arvind