

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 7800 of 2023

Applicant :- Ravi Singh @ Kallu Singh

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko. And Ors.

Counsel for Applicant :- Ram Kushal Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard learned counsel for the applicant, learned A.G.A. for the state and perused the record.
2. As per office report dated 17.07.2023, notice has been served upon opposite party no.2 but no one has appeared.
3. This application has been filed with prayer to enlarge the accused/applicant- Ravi Singh @ Kallu Singh, on bail in F.I.R./Case Crime No.119 of 2022, under Sections 354, 504, 506 I.P.C. and Section 7/8 of Protection of Children from Sexual Offences Act, registered at Police Station- Motigarpur, District- Sultanpur.
4. Learned counsel for the applicant submitted that the father of the prosecutrix lodged FIR against the applicant in which he has mentioned that his daughter had gone outside on the call of nature where the applicant met and overpowered her and gagged her mouth and anyhow, she could manage to open her mouth and raised alarm. Upon alarm being raised, his wife went to the place of occurrence and the applicant ran away from the place.
5. Learned counsel for the applicant has further drawn attention of the Court towards the statement of the prosecutrix recorded under Section 164 CrPC, in which she has deposed that she has gone outside on the call of nature where accused met and gagged her mouth and started abusing her. It has been submitted by learning counsel for the applicant that in the statement recorded under section 164 CrPC, the prosecutrix has not levelled any allegation against the applicant regarding ill intention of committing rape or physical sexual assault, rather she has mentioned that the applicant gagged her mouth and started abusing her. Learned counsel for the applicant further submitted that maximum punishment provided under section

7/8 of the Protection of Children from Sexual Offences Act, is 5 years. He has submitted that the applicant is in jail since 09.03.2023 and prayed that the applicant may be enlarged on bail.

6. Learned A.G.A. has, however, opposed the prayer for grant of bail and submitted that on the basis of statement of the prosecutrix, case is made out against the applicant under Section 7/8 of Protection of Children from Sexual Offences Act, therefore, the applicant is not entitled to be granted bail and the bail application is liable to be rejected.

7. Considering the overall facts and circumstances of the case, perusing the record, considering the nature of allegations, arguments advanced by the learned counsel for the parties, looking into the fact that there is changed version between the statement of prosecutrix recorded under Section 164 CrPC and the F.I.R., the argument that the applicant did not commit any sexual assault or sexual offence against the prosecutrix, the argument that the applicant is in jail since 09.03.2023, I find it to be a fit case for grant of bail.

8. Accordingly, the bail application is **allowed**.

9. Let the applicant- **Ravi Singh @ Kallu Singh** 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 her 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 :- 1.11.2023

Manoj K.