

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13003 of 2022

Applicant :- Rajneesh Pal

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home, Lko. And 3 Others

Counsel for Applicant :- Raghvendra Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. As per communication dated 08.12.2022 sent by the Chief Judicial Magistrate, Hardoi, opposite party no.2 has sufficiently/personally been served, however, he is not represented.

1. Heard Sri Raghvendra Singh learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.

2.This bail application has been moved on behalf of the applicant/Rajneesh Pal for grant of bail, in Case Crime No. 114 of 2022, under Sections 363, 366, 376 IPC and Section 3/4 of Protection of Children from Sexual Offences Act, Police Station Tadiyanwan, District Hardoi, during pendency of trial.

3. Learned counsel for accused-applicant while drawing the attention of the Court towards the FIR submits that the applicant has falsely been implicated in this case. Though he was named in the FIR, however, the allegations levelled therein are patently false and could not be believed. It is further submitted that after recovery of the prosecutrix, her statement was recorded under Sections 161 and 164 Cr.P.C. wherein she stated to be in love with the applicant and also that she was talking to him since long and she was persuaded by her aunt to accompany the applicant and she also solemnized the marriage with the applicant in a temple and thereafter they also resided as husband and wife.

4. Highlighting above, it is vehemently submitted that the prosecutrix has not alleged any imputation against the applicant and has stated to accompany him with her free wish and will and in the medical report of the prosecutrix, no abnormality or injury of any kind has been found and as the applicant and prosecutrix were of different religion, the matter has been given

undue hype and the FIR has been lodged.

5. It is further submitted that in the FIR as well as in the statements of prosecutrix recorded under Sections 161 and 164 Cr.P.C., her age has been shown to be 15 years and in her educational credentials, the date of birth is shown as 11.01.2007 while through Ossification test, her age has been assessed as 18 years. However, the tender age of the prosecutrix is immaterial as she has categorically stated to accompany the applicant with her free wish and will and also to have solemnized marriage with him. The applicant is in jail since 02.04.2022. Still trial has not started and the same is going to conclude in near future. The applicant is not having any criminal history and there is no apprehension that after being released on bail he may flee from the course of law or may otherwise misuse the liberty.

6. Learned A.G.A. opposes the prayer for bail of the applicant on the ground that the applicant is accused of committing heinous crime.

7. Having heard learned counsel for the parties and having perused the record, it is reflected that the prosecutrix in her statements recorded under Sections 164 and 161 Cr.P.C. has not alleged any allegation against the applicant. The medical report of the prosecutrix is clean. The applicant has been in jail in this case for about 19 months and the trial is stated to have not started yet. The age of the prosecutrix is yet to be conclusively determined by the trial court. Thus, having regard to the period already undergone by the applicant coupled with the statement of the prosecutrix recorded under Sections 161 and 164 Cr.P.C. appears to be sufficient enough to exercise discretion in favour of the applicant, more so when he is not having any criminal history. The presence of the applicant may be secured before the trial court by placing adequate conditions.

8. Let the **applicant/Rajneesh Pal** 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.

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

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

11. 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 on the merits of the case.

Order Date :- 30.10.2023

Renu/-