

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12144 of 2023

Applicant :- Sanoop Harijan

Opposite Party :- State Of U.P., Thru. The Prin. Secy. Home Deptt., Luknow And Others

Counsel for Applicant :- Santosh Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Learned A.G.A. informs that opposite party no.2 (complainant) has been served at their end and in this regard a communication sent by the Police Station Ibrahimpur, District Ambedkar Nagar of date 19.09.2023 is placed before this Court for perusal, perusal of which, shows that the opposite party no.2 (complainant) has been sufficiently served. The same is taken on record.

2. It is also informed by learned A.G.A. that she has procured complete instructions in the matter including up-to-date case diary and charge sheet in this case has also been submitted.

3. Heard Shri Santosh Kumar Srivastava, learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.

4. This bail application has been moved by the accused/applicant- **Sanoop Harijan** for grant of bail, in Case Crime No. 102 of 2023, under Sections 363, 366, 376 I.P.C. and Section 3/4 of the Protection of Children from Sexual Offences Act, 2012, Police Station Ibrahimpur, District Ambedkar Nagar, during trial.

5. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. The first information report of this case has been lodged by the father of the victim on 17.04.2023 alleging that the applicant has enticed away her minor daughter, aged about 17 years. It is vehemently submitted that the prosecutrix/victim herself returned and on her return her statement under Section 161 and 164 Cr.P.C. was recorded, wherein she has not imputed any allegation against the applicant and has specifically stated that she was in love with the applicant and they had left their houses together and solemnized marriage on 26.04.2023 at a temple

and, thereafter, had gone to Delhi where they remained as husband and wife and the sexual relations between them have been established with her free wish, will and consent.

6. It is further submitted that in her statement recorded under Section 161 and 164 Cr.P.C., the prosecutrix has stated her age to be of 19 years and as per her educational credentials her date of birth is 25.07.2005, by which she comes of the age of 17 years and 09 months, while her radio-logical age has been assessed as 18-19 years at the date and time of the incident. Thus, she appears to be major and since the sexual relations have been established by her with free wish, will and consent and she has not imputed any allegation against the applicant in fact no offence has been committed by the applicant.

7. It is next submitted that applicant is languishing in jail in this case since 08.07.2023 and he is not having any criminal history. Charge sheet in this case has already been filed 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.

8. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed an heinous offence and, therefore, he is not entitled to be released on bail.

9. Having heard learned counsel for the parties and having perused the record, it is evident that as per her educational credentials the age of the prosecutrix is coming as 17 years and 09 months at the date and time of the alleged incident while, her radio-logical age has been assessed as 18-19 years and in her statement recorded under Section 161 and 164 Cr.P.C. she has stated her age to be of 19 years and it is in this background it is submitted that the prosecutrix was major at the date and time of the incident. Admittedly she has not alleged any imputation against the applicant and has also refused to undergo any internal medical examination. Applicant is languishing in jail in this case since 08.07.2023 without any criminal antecedents. Charge sheet in this case has also been filed and the presence of the applicant may be secured before the trial court by placing adequate conditions.

10. Keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, submissions of the learned counsel for the parties and without expressing any opinion on the merits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is thus **allowed**.

11. Let the accused/applicant- **Sanoop Harijan** 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.

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

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

14. 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 :- 11.10.2023

Praveen