

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12398 of 2023

Applicant :- Amrat Pal Singh

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

Counsel for Applicant :- Lalji Prasad Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Vakalatnama filed by Shri Dinesh Kumar, Advocate on behalf of complainant is taken on record.

2. Heard Shri Lalji Prasad Shukla, learned counsel for the applicant, Shri Vipul Kumar Singh, brief holder for learned AGA and Shri Dinesh Kumar, learned counsel for the opposite party no. 2 and perused the record.

3. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.642 of 2022, under Sections 363, 366, 376 I.P.C. and Section 5 अ (ii)/6 POCSO Act, Police Station Ramkot, District Sitapur.

4. Learned counsel for the applicant has invited attention of this Court towards the statement of Section 164 Cr.P.C. of the prosecutrix in which she has deposed that she had gone along with the applicant to Punjab where she has performed marriage in a temple and used to live as wife of the applicant. She further deposed that she has pregnancy of five months and is aged about 18 years. Learned counsel submitted that as per school certificate, the date of birth of the prosecutrix is 15.06.2006. The prosecutrix denied medical examination. Learned counsel submitted that it is a case of consent as she was living as wife as per her statement. Learned counsel for the applicant has submitted that father of the prosecutrix lodged FIR making allegation of abduction and enticement of his daughter by the applicant. The applicant has no criminal history and is in jail since 10.09.2023.

5. On the other hand, Shri Dinesh Kumar, who has filed his Vakalatnama on behalf of opposite party no.2, who is father of the prosecutrix has submitted that the complainant (father) has no objection in case bail is granted. He has submitted that applicant and the prosecutrix have got married and he wants that the prosecutrix should go to the house of applicant as wife.

6. Learned AGA on the basis of instructions submitted that according to CD No.24, the radio-logical age of the prosecutrix is approximately 18 years, she has become

major at the moment because incident took place on 11.12.2022 and the FIR was lodged on 17.12.2022 and now the prosecutrix is major.

7. Without expressing any opinion on the merits of the case and after hearing learned counsel for the parties and considering the argument of consent, argument that prosecutrix has not supported the prosecution case and she has stated that she had gone to Punjab along with the applicant and lived along with the applicant as his wife; argument that the prosecutrix has refused for medical examination ; argument that as per radiological age, the prosecutrix is about 18 years and now she is major; I find it to be a fit case for grant of bail.

8. Let the applicant, **Amrat Pal 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 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.

9. 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 :- 18.10.2023

Pks