

**Court No. - 14**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 14369 of 2022

**Applicant :-** Ehsaan

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

**Counsel for Applicant :-** Arun Singh Somvanshi, Alok Kumar Singh, Sanjay Singh Chauhan

**Counsel for Opposite Party :-** G.A., Madhulika Yadav

**Hon'ble Mohd. Faiz Alam Khan, J.**

1. Heard learned counsel for the accused-applicant, learned A.G.A. for the State, as well as Mr. Chandra Shekhar Singh Yadav, Advocate, holding brief of Ms. Madhulika Yadav, learned counsel for the complainant/informant/opposite party no. 2 and perused the record.

2. This bail application has been moved by the accused/applicant-**Ehsaan** for grant of bail in Case Crime No.0524 of 2022, under Sections 323, 506 and 376 IPC read with Section 3/4 POCSO Act lodged at Police Station Gola, District Kheri, during trial.

3. Learned counsel for the accused-applicant, while pressing the bail application, submits that the applicant has been falsely implicated in this case and, he has not committed any offence, as claimed by the prosecution. It is further submitted that in the FIR as well as in the statement of the prosecutrix recorded under Section 161 CrPC, there was no allegation with regard to commission of rape and the allegations were confined only to commission of molestation, however, the same is not corroborated by any medical evidence. It is also submitted that earlier an agreement had arrived at between the families of the applicant and the prosecutrix wherein it was contemplated that the applicant shall marry the prosecutrix and on this information provided, the coordinate Bench of this Court vide order dated 18.05.2023 had released the applicant on interim bail on the insistence of the parties that they have intent to solemnize marriage. It is informed that parties have solemnized marriage and through supplementary affidavit dated 25.09.2023 copy of the 'Nikahnama' has also been brought on record as SA-1. It is vehemently submitted that to show his bona fide, the applicant had already deposited Rs.21,500/- in the bank-account of the prosecutrix/victim and, an FDR of Rs.29,000/- has also been made in favour of the prosecutrix. It is vehemently submitted that since the release on interim bail, the applicant has not flouted any conditions imposed by the coordinate

Bench. The applicant had been in jail in this case since 23.07.2022 till his release on interim bail and he is not having any previous 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 and since his marriage has been solemnized with the prosecutrix/victim, he wants to lead a happy matrimonial life.

4. 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.

5. Learned counsel for the informant/complainant vehemently submits that he, under instructions, is not opposing the bail plea of the applicant. It is further submitted that families of the prosecutrix and the applicant have solemnized their marriage and they are leading a happy married life and further detention of the applicant, in this case, may ruin their married lief. The prosecutrix, who is also present before this Court, in categorical terms has admitted that she is not having any objection if the applicant is enlarged on bail, more so, when they have solemnized marriage and are leading a married life happily.

6. Having heard learned counsel for the parties and having perused the record, it appears that during the pendency of the instant bail application an agreement appears to have arrived between the parties wherein it was contemplated that the parties willingly agreed to solemnize marriage of the applicant with the victim. The victim has also appeared before this Court, acknowledging the proposal and it is in this background that the coordinate Bench of this Court had released the applicant on interim bail. By filing a supplementary affidavit 'Nikahnama' has been placed on record, which *prima facie* reflects that the parties have solemnized marriage. To show his bona fide and keeping in view the security of the prosecutrix, the applicant had already deposited Rs.21,500/- in the bank-account of the prosecutrix/victim and today an FDR of value of Rs.29,000/- in original has been handed over to the victim/prosecutrix. Having regard to all the facts and circumstances of the case, keeping in view the special circumstances that the parties have willingly solemnized marriage and they want to live a happy married life, the facility of bail may be extended to the applicant. 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.

7. 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**.

8. Let the accused/applicant- **Ehsaan**, 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. If securities, already filed by the applicant before the trial Court pursuant to order of his release on interim bail, in the opinion of the trial Court are sufficient enough, there would be no necessity to take other sureties and the same sureties, if they are competent, may be accepted in lieu of the instant order.

10. The F.D.R. of value of Rs. 29,000/- made in favour of the prosecutrix/victim has been given in her custody, however, it is contemplated that no charge etc. would be created on this F.D.R. for one year nor the same shall be made subject to any mortgage and after the period of maturity, the payment of the same shall be credited in the bank-account of the prosecutrix/victim (Khushbu).

11. In case of breach of any of the above conditions, the prosecutrix/victim shall be free to approach the trial Court for the purpose of cancellation of bail of the applicant.

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

13. 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.

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**[Mohd. Faiz Alam Khan, J.]**

**Order Date :- 16.11.2023MVS/-**