

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12467 of 2023

Applicant :- Ankul @ Ankur

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home Deptt. Lko. And Another

Counsel for Applicant :- Bhola Singh Patel, Pravin Kumar Verma

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. As per communication sent by the Chief Judicial Magistrate, Raebareli, opposite party no.2 has been sufficiently served. However, she is not represented.
2. Rejoinder affidavit filed by learned counsel for the applicant is taken on record.
3. Heard Shri Bhola Singh Patel, 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- **Ankul @ Ankur** for grant of bail, in Case Crime No. 0186 of 2023, under Section 366 and 376 I.P.C., Police Station Dalmau, District Raebareli, 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 was lodged by the mother of the prosecutrix on 01.07.2023 alleging that the applicant has enticed away her daughter, aged about 22 years on 26.06.2023. It is vehemently submitted that before the arrest of the applicant an application was moved by the prosecutrix herself on 24.07.2023 to the S.H.O. of Police Station Dalmau, Raebareli informing that she had left her home as she was scolded by her mother (informant) and she was not enticed away by anyone and at Jodhpur she had met with the applicant who helped her in getting a job and that they have developed intimacy and when she came to know that her mother had lodged a case against Ankur she has returned herself and also that she was not enticed away by the applicant. The prosecutrix in her statement recorded under Section 161 Cr.P.C. has also not alleged any allegation against the applicant and categorically

stated that physical relations between them were also established with her will and consent.

6. It is further submitted that after many days of recording of the statement of the prosecutrix under Section 161 Cr.P.C. and after moving an application by her in the police station, her statement was recorded under Section 164 Cr.P.C., wherein for the very first time she stated that she was taken by the applicant on the pretext that he will commit suicide if the prosecutrix would not accompany him and was taken to Kanpur from where she was taken to Jodhpur, Rajasthan where they solemnized marriage, however, the marriage was not solemnized with her wish and will nor she had given consent for sexual relations.

7. It is vehemently submitted that the statement of the prosecutrix recorded under Section 164 Cr.P.C. has been given while she was under the influence of her family members. The prosecutrix was aged about 26 years at the date and time of the incident. She was major and was having sufficient intellect and her accompanying with the applicant, as stated by her in her statement recorded under Section 161 Cr.P.C. and in the application given by her in the police station concerned she was a 'consenting party' and she also refused to undergo any medical examination. Therefore, in support of the allegations of sexual assault, there is only and only the untrustworthy statement of the prosecutrix.

8. It is next submitted that applicant is languishing in jail in this case since 27.07.2023 and he 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.

9. 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.

10. Perusal of the record would reveal that the prosecutrix was about 26 years old at the date and time of the indent. In her statement recorded under Section 161 Cr.P.C., she had categorically stated not to have been enticed away by the applicant. An application is also shown to have been moved by her in the concerned police station wherein also the allegation of enticing her away and committing sexual assault has been refuted by her. It is only in the statement recorded under Section 164 Cr.P.C., she has alleged marriage and sexual relations solemnized/made while taking her consent forcefully by putting her in apprehension. The prosecutrix is also refused to undergo

any medical examination. Applicant is in jail since 27.07.2023 and he is not having any criminal history.

11. Having regard to the fact that written application was moved by the prosecutrix before the S.H.O. of the concerned police station and also the statement of the prosecutrix recorded under Section 161 Cr.P.C. as well as the age of the prosecutrix, which was about 26 years at the date and time of the incident, without commenting anything on the merits and demerits of the case, the applicant has made out a case for bail. The bail application is thus **allowed**.

12. Let the accused/applicant- **Ankul @ Ankur** 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.

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

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

15. 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 :- 16.11.2023

Praveen