

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12649 of 2023

Applicant :- Amaan Ansari

Opposite Party :- State Of U.P Thru. The Prin. Secy. Home, Civil Secrtt. Govt. Lko. And Others

Counsel for Applicant :- Farooq Ayoob

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 Huzoorpur, District Bahraich of date 19.10.2023 is placed before this Court for perusal, perusal of which, shows that the opposite party no.2 (complainant) of this case has been personally served. The same in original is taken on record. Despite being served, the opposite party no.2 is not represented.

2. It is also informed by learned A.G.A. that he has procured complete instructions in the matter including up-to-date case diary and charge sheet in this case has also been submitted. Thus, there is sufficient material available before this Court on the basis of which the plea of bail of the applicant may be adjudicated.

3. Heard Shri Farooq Ayoob, 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- **Amaan Ansari** for grant of bail, in Case Crime No. 241 of 2023, under Sections 363, 366, 376 (3) I.P.C. and Section 3/4 (2) of the Protection of Children from Sexual Offences Act, 2012, Police Station Huzoorpur, District Bahraich, 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 prosecutrix on 04.07.2023 at Police Station Huzoorpur, District Bahraich, alleging therein that his daughter, aged about 14 years have been enticed away by the applicant with the help of his parents, who are also arrayed as accused

persons in the first information report.

6. It is vehemently submitted that the statement of the prosecutrix after lodging of the first information report was recorded by the investigating officer wherein she has not imputed any allegation against the applicant rather she stated that on relevant day she had gone to Lucknow and her mother was in knowledge of this fact and had also given Rs. 2000/- to her. However, due to the non-availability of the conveyance she could not return early in the evening and became late and on this basis her maternal uncle (mamu), who was having a bad eye on her has lodged the first information report. It has been categorically stated by her that she was neither enticed away by the applicant or any other persons whether she had gone to 'Janeshwar Park' and 'Lohiya Park' at Lucknow with her friends.

7. It is further submitted that the statement of the prosecutrix under Section 161 Cr.P.C. was recorded when a message was given by the prosecutrix to the concerned 'Police Chowki In charge'. In this regard attention of this Court is drawn at Page No.25 of the paper book, whereon Parcha No.2 of date 05.07.2023 has been placed. The statement of the prosecutrix was recorded when a message was given by her on 06.07.2023 at 8:18 pm. and when on that message the 'Police Chowki In charge' had gone to the house of the informant, he found the prosecutrix/victim, which was kept hidden on the roof and she (prosecutrix) informed the Chowki In charge that the applicant has been wrongly implicated in this case and she has been assaulted by her family members and a false case has been lodged against the applicant.

8. It is also submitted that there is no abnormality or injury, etc. has been found in the medical examination report of the prosecutrix and her age, as per the first information report is shown as 14 years, while in her statements recorded under Section 161 and 164 Cr.P.C. she has stated her age to be of 17 years and by educational credentials her age is coming more than 14 years. However, the age of the prosecutrix is not relevant, as she in her statements recorded under Section 161 and 164 Cr.P.C. had categorically ruled out that she was either kidnapped or sexually assaulted by the applicant or by anyone.

9. It is next submitted that applicant is languishing in jail in this case since 16.08.2023 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.

10. Learned A.G.A., however, opposes the prayer of bail of the

applicant on the ground that the applicant has committed an heinous offence, however, he accepted this proposition that except the statement of the prosecutrix recorded under Section 161 Cr.P.C. (only once) and under Section 164 Cr.P.C. (before the Magistrate), no other statement of the prosecutrix has been recorded elsewhere.

11. Having heard learned counsel for the parties and having perused the record, it is transpired that though, the age of the prosecutrix as per her educational credentials is shown as 14 years and 02 months and in her statement recorded under Section 161 and 164 Cr.P.C. stated to be of 17 years, but the same appears to be insignificant at this stage (the stage of consideration of bail), as she in her statement recorded under Section 161 and 164 Cr.P.C. specifically stated to have gone to Lucknow with her friends and also that she was not either abducted or sexually assaulted by anyone and the first information report, according to her, has been written in order to falsely implicate the applicant. Attention of this Court has also drawn by learned counsel for the applicant on a G.D. entry made by the investigating officer, wherein it is stated that the prosecutrix, who was kept under detention by her parents, was rescued by him from the house of the informant. Applicant is languishing in jail in this case since 16.08.2023 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.

12. 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**.

13. Let the accused/applicant- **Amaan Ansari** 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.

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

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

16. 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

Praveen