

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12792 of 2023

Applicant :- Sachin Kumar Ranjan

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

Counsel for Applicant :- Ajeet Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Counter affidavit filed on behalf of the State is taken on record.
2. The State along with its counter affidavit has filed a communication sent by the Police Station Manjhila, District Hardoi, with regard to the service on opposite party no.2 for perusal, perusal of which, shows that the opposite party no.2 (complainant) has been served personally. However, he is not represented.
3. Heard Shri Ajeet Kumar Singh, 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- **Sachin Kumar Ranjan** for grant of bail, in Case Crime No. 240 of 2023, under Sections 376(2)(n), 354-C, 506 I.P.C., Section 5/6 of the Protection of Children from Sexual Offences Act and Section 67-A, 66-C and 66-E I.T. Act, Police Station Manjhila, District Hardoi, 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 prosecutrix herself on 02.06.2023 with the allegations that the applicant is blackmailing her and also molesting her on the pretext of making her obscene photographs viral whereby the marriage of the prosecutrix has broken. She also stated to have enclosed those photographs with the application.
6. It is vehemently submitted that in the counter affidavit no such photograph has been filed nor has been collected by the investigating officer during the course of investigation.

7. It is further submitted that the prosecutrix in her statement recorded under Section 161 Cr.P.C. has also confined her statement to committing molestation and there was no whisper about the commission of rape. However, in her statement recorded under Section 164 Cr.P.C. after many days of recording of her statement under Section 161 Cr.P.C., she for the very first time has disclosed that she was in love with the applicant and when she used to visit him, he had committed sexual assault.

8. It is also submitted that the statement of the prosecutrix recorded under Section 164 Cr.P.C. could not be believed due to its inherent weaknesses as for the very first time she introduced the fact of being in love with the applicant and also that she was in a relationship with the applicant for the last seven years, which was never disclosed earlier and, therefore, the statement of the prosecutrix recorded under Section 164 Cr.P.C. could not be believed moreso when there is no abnormality or injury, etc. found in the medical examination report. The prosecutrix at the relevant point of time was aged about more than 18 years and she was major and even if any cohabitation has taken place between the applicant and prosecutrix, the same was 'consensual' and it could not be termed as rape.

9. It is next submitted that applicant is languishing in jail in this case since 07.06.2023 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.

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 and, therefore, he is not entitled to be released on bail.

11. Perusal of the record would reveal that the prosecutrix in the F.I.R. lodged by herself as well as in her statement recorded under Section 161 Cr.P.C. has confined allegations only to the tune of 'molestation'. It was in her statement recorded under Section 164 Cr.P.C., she introduced new facts pertaining to rape and also being in a relationship with the applicant for the last seven years and it is in this background, it is submitted by learned counsel for the applicant that the statement of the prosecutrix recorded under Section 164 Cr.P.C. could not be believed. She was admittedly aged about more than 18 years at the date and time of lodging of the F.I.R. Applicant is languishing in jail in this case since 07.06.2023 without any criminal antecedents 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 -**Sachin Kumar Ranjan** 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 :- 17.11.2023

Praveen