

Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13912 of 2023

Applicant :- Arjun @ Bali

Opposite Party :- State Of U.P Thru. Prin. Secy. Home Civil Sectr. Lko.

Counsel for Applicant :- Rayees Ahmad Khan

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Jyotsna Sharma,J.

1. Heard Sri M.K. Sharma, Advocate holding brief for Sri Rayees Ahmad Khan, learned counsel for applicant and learned A.G.A. for the State.

2. The present bail application has been filed by the applicant seeking bail in case crime no. 118 of 2023, under sections 363 and 366 I.P.C. registered at Police Station-Cantt, District-Lucknow.

3. As per the prosecution case, 13 year old daughter of the first informant was abducted by the accused/applicant-Arjun @ Bali in the evening of 05.09.2023. When the first informant tried to contact him on his mobile number, he was evasive in his reply. Two days after the incident, she returned on her own. Her statements were recorded and the accused has been chargesheeted under sections 363 and 366 IPC.

4. It is contended on behalf of the applicant that from the statements given by the victim under sections 161 and 164 Cr.P.C., no offence of any kind is made out, as she has stated that she willingly accompanied the accused/applicant. He was well-known to her and used to reside in the neighborhood. It is further stated that she was not put to any objectionable conduct by the accused. She meant to say that no physical relationship were established. The matter was found coming under sections 363 and 366 IPC only. Further that prosecution has failed to collect any evidence, medical or otherwise, as regard her age being below 18 year. The investigating officer did not find anything to bring the matter under section 376 IPC or any other relevant sections of POCSO Act. At the most, matter may be viewed from the angle of teenage infatuation and no more.

5. The application for bail is opposed by learned A.G.A., highlighting the fact that the girl was of tender age and the matter should not be treated leniently, however it is conceded that no medical examination regarding her age was conducted during the investigation. It is further conceded that the applicant is having no criminal history and is in custody since last about two months.

6. I considered the nature of allegation, role ascribed to the applicant, evidence proposed to be produced, period of detention, absence of previous criminal history, explanatory defence offered by the applicant on the basis of contentions as above and all other facts and circumstances of the case. In my view, a case for bail is made out.

7. Let applicant - **Arjun @ Bali** be released on bail in the aforesaid Case Crime Number on his furnishing personal bond and two reliable sureties each of the like amount to the satisfaction of the court concerned subject to

following conditions:-

(i) The applicant shall not temper with evidence/witnesses.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel.

(iii) The applicant shall remain present, in person, before the trial court on the dates fixed for (a) hearing/framing of charge and (b) recording of statement under Section 313 Cr.P.C. without exception.

(iv) It is further provided that before issuing the release order, present and permanent address of the accused as well as sureties shall also be duly verified and the applicant shall submit undertaking that he shall not change his address without prior intimation to the court concerned.

8. Any violation of above conditions will be treated misuse of bail and learned Court below will be at liberty to pass appropriate order.

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 :- 24.11.2023

Vikram