

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13825 of 2023

Applicant :- Sonu Kewat

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

Counsel for Applicant :- Ajeet Kumar Singh

Counsel for Opposite Party :- S.C.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Short counter affidavit filed by Shri Rabindra Shukla, learned counsel appearing for the victim is taken on record.
2. Learned AGA informs that the opposite party no.2/informant has been served sufficiently at their end. In this regard, a communication has been received by learned AGA from the concerned police station, which is placed before this Court for perusal, the same is taken on record.
3. It is also informed by learned counsel for the parties that the prosecutrix is herself present before this Court.
4. Heard learned counsel for the accused/applicant, learned A.G.A. for the State as well as learned counsel representing the victim and perused the record.
5. This bail application has been moved by the accused/applicant- **Sonu Kewat** for grant of bail, in Case Crime No. 641 of 2021, under Sections 363, 366, 376 IPC & Section 3/4 of POCSO Act, Police Station Beniganj, District Hardoi, during trial.
6. Learned counsel for the accused-applicant while pressing the bail application submits that the accused-applicant has falsely been implicated in the instant case and he has not committed any offence as claimed by the prosecution.
7. It is further submitted that in the FIR which has been lodged by the father of the prosecutrix, it is alleged that the applicant had enticed away his daughter aged about 16 years who had also taken with her Rs. 85,000/-. On being recovered, the statements of the prosecutrix/victim were recorded under Sections 161 & 164 CrPC wherein she stated that she had solemnized the marriage with the applicant about two years

before lodging of the FIR and they started living as husband and wife. She also got pregnant. However, the child has died in the womb.

8. It is vehemently submitted by learned counsel for the applicant that the prosecutrix in her statements recorded under Sections 161 & 164 CrPC has stated her age to be of 19 years and 18 years respectively and thus, she was major at the date and time of the incident. She has categorically stated that she had solemnized marriage with the applicant. Thus, no offence has been committed by the applicant.

9. It is further submitted that the prosecutrix/victim is herself present before this Court. She is major and is now living with the family of the applicant as their daughter-in-law and a further detention of the applicant in this case would ruin her matrimonial life.

10. It is further submitted that the applicant is in jail in this case since 26.9.2023 and he is not having any criminal antecedents. Charge sheet in the matter has already been filed and there is no apprehension that the accused-applicant after release on bail, may flee from the process of law or may otherwise misuse the liberty.

11. Learned A.G.A., on the other hand submits that having manner in which the offence has been committed the applicant is not entitled for any relief.

12. Shri Ravindra Shukla, learned counsel for the victim while referring to the short counter affidavit filed on behalf of the victim submits that the victim is now living with the family of the applicant as she has solemnized marriage with the applicant. She was major at the date and time of the alleged incident. She is not having any objection, if the facility of bail is extended to the applicant.

13. At this juncture, this Court made some interactions with the victim who has been identified by Shri Ravindra Shukla, Advocate and she in response states that she is not having any objection, if the facility of bail is extended to the applicant as she is a legally wedded wife of the applicant and was major at the relevant point of time.

14. Having heard learned counsel for the parties and having perused the record, it appears to be an admitted situation that with regard to the age of the prosecutrix/victim only her statements recorded under Sections 161 & 164 CrPC are available wherein she had stated her age as of 19 years and 18

years, respectively. It is admitted by learned AGA that apart from the averments made by the prosecutrix in her statements recorded under Sections 161 & 164 CrPC, there is no other evidence in the case diary with regard to her age. Thus, the prosecutrix appears to be major at the relevant point of time. She categorically stated to have solemnized marriage with the applicant. Today also, when she is physically present before this Court, she stated that she is not having any objection, if the facility of bail is extended to the applicant as she is a legally wedded wife of the applicant and is now living with the family of the applicant. The applicant is in jail in this case since 26.9.2023 without any criminal history. Charge sheet in the matter has already been filed. His presence could be secured before the trial court by placing any adequate conditions.

15. 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 and demerits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is **allowed**.

16. Let the applicant- **Sonu Kewat** involved in the aforesaid case be released on bail on 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.

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

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

19. Observations made herein-above are only for the purpose of disposal of bail application and the same shall not have any bearing on the trial of the case.

Order Date :- 23.11.2023/Shravan