

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13947 of 2023

Applicant :- Mangal Rawat

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

Counsel for Applicant :- Meena Bajpai

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. It is informed by learned AGA that opposite party no.2 has been served at their end, in this regard a communication letter of date 09.11.2023 received from Police Station Mawai, District Ayodhya has been placed for perusal and is taken on record. Perusal of this communication would sufficiently demonstrate that opposite party no.2/ complainant has sufficiently been served, however, he is not represented.

2. Heard learned counsel for the accused/applicant as well as learned A.G.A. for the State and perused the record.

3. This bail application has been moved by the accused/applicant- **Mangal Rawat** for grant of bail, in Case Crime No. 50/2023, under Sections 363, 366, 376 IPC and Section 3/4 POCSO Act, Police Station Mawai, District Ayodhya, during trial.

4. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. The First Information Report has been lodged by the mother of the prosecutrix on 9.4.2023, alleging therein that on 7.4.2023 at 8.00 P.M. the prosecutrix had left her home and thereafter did not return for a long time and thereafter she came to know that applicant had enticed her away. On being recovered, the prosecutrix's statements were recorded under Sections 161 and 164 Cr.P.C., wherein she stated that she was in love with the applicant and had accompanied him for the purpose of solemnizing marriage and had gone to Shimla where they were living in a rented room and were also cohabiting but their marriage could not be solemnized as it was advised by an advocate that when she will become a major, their marriage would be solemnized.

5. Highlighting the above facts, it is submitted that as per the

educational credentials her date of birth is shown as 10.5.2005 whereby she comes of about 17 years and 11 months thus, she was almost major and when she had not any alleged any imputation or allegations against the applicant, no offence has been committed by the applicant.

6. It is further submitted that the applicant is in jail in this case since 09.05.2023 and he is not having any criminal antecedent. Charge sheet in this case has already been submitted 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.

7. Learned A.G.A., however, opposes the prayer for bail of the applicant on the ground that at the relevant point of time prosecutrix was not major and she was not in age to give her consent.

8. Having heard learned counsel for the parties and having perused the record, it is evident that date of birth of victim is 10.5.2005, by which her age comes about 17 years and 11 months at the time of incident. She had left her home on 7.4.2023 and returned after a month by herself. The defence of the applicant appears to be that the prosecutrix was almost major and when she has chosen to accompany the applicant for the purpose of solemnizing marriage and have also cohabited, with her free wish, will and consent, no offence is made out against the applicant. The applicant is in jail in this case since 9.5.2023 and he is not having any criminal antecedent. Charge sheet in this case has already been submitted. His presence may be secured before the trial court by placing adequate conditions.

9. 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**.

10. Let the applicant- **Mangal Rawat** 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.

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

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

13. 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 :- 24.11.2023

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