

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14383 of 2023

Applicant :- Sanjay Verma @ Sanju

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

Counsel for Applicant :- Farooq Ayoob

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Supplementary affidavit filed on behalf of the applicant is taken on record.
2. Learned A.G.A. informs that he has procured complete instructions in the matter including upto date case diary of the case and the opposite party no.2 has been served at their end and in this regard a written information furnished by the S.H.O. Police Station Zaidpur, Police Station Barabanki is placed before this Court for perusal and the same is taken on record, however, he is not represented.
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- **Sanjay Verma @ Sanju** for grant of bail, in Case Crime No.0308 of 2023, under Sections 363, 366, 376 I.P.C. and 5(L)/6 of the P.O.C.S.O. Act, Police Station Zaidpur, District Barabanki, during trial.
5. Learned counsel for the accused-applicant while pressing the bail application submits that the applicant has been falsely implicated in this case and he has not committed any offence as claimed by the prosecution.
6. It is further submitted that F.I.R. of this case has been lodged by father of the prosecutrix alleging therein that his daughter aged about 17 years has been enticed away on 19.07.2023 by the applicant and she was traced by him and was brought back to the house. Statements of the prosecutrix were recorded under Sections 161 and 164 Cr.P.C., wherein she stated to be in a relationship with the applicant for the last five years and also that she was in love with the applicant and they were cohabiting

frequently and their family members were also ready to solemnize their marriage, however, the family members of the applicant later on refused to marry the applicant with her.

7. Highlighting the above facts, it is vehemently submitted on behalf of the applicant that statement of the prosecutrix recorded under Sections 161 and 164 Cr.P.C. would clearly demonstrate that she was a consenting party, however, the investigating officer appears to have filed charge sheet on account of the age of the prosecutrix, which according to the prosecution is shown little less than 17 years and in this regard para-4 of the supplementary affidavit filed today is highlighted as well as bail rejection order passed by the trial court, wherein another certificate of the prosecutrix has been referred, wherein her date of birth has been shown as 30.04.20224 by which she is coming of above 19 years at the date and time of the alleged incident while the educational certificate relied on by the prosecution is of Class-10th.

8. It is further submitted that in view of the another educational certificate of the prosecutrix, her date of birth shown in the high school certificate may not be deemed as conclusive and the same is yet to be adjudicated/finally assessed by the trial court.

9. It is next submitted that applicant is in jail in this case since 22.07.2023 and he is not having any criminal history, charge-sheet in this case has already been submitted and there is no apprehension that after being released on bail the applicant 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 having regard to the material/evidence available against the applicant, he is not entitled to be released on bail, but could not controvert the other factual submissions made by learned counsel for the applicant.

11. Having heard learned counsel for the parties and having perused the record, it is evident that statement of the prosecutrix recorded under Sections 161 and 164 Cr.P.C. as well as the information given by her to the Doctor while she was under medical examination would clearly demonstrate that she had herself accompanied the applicant as according to her she was in love with the applicant. The date of birth of the prosecutrix as per her high school certificate is 06.08.2006 by which she is coming of 16 years, 11 months and 13 days, however, there is another certificate collected by the investigating officer pertaining to Class-1, 2 and 3 of the prosecutrix, wherein her date of birth has been shown as 30.04.2004, whereby she is

coming of the age of above 19 years at the date and time of the alleged incident. It is in this background submitted on behalf of the applicant that date of the birth of the prosecutrix is shown in the Class-10th certificate may not be deemed of conclusive. Medical reports of the prosecutrix are clean and the bleeding, which has been mentioned by the Doctor, is pertaining to mensuration. Charge-sheet in this case has already been filed. Applicant is in jail in this case since 22.07.2023 without any previous criminal history. The presence of the applicant could be secured before the trial court by placing adequate conditions.

12. Having regard to the overall facts and circumstances of the case and 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- **Sanjay Verma @ Sanju** 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 of this Court on the merits of the case.

Order Date :- 12.12.2023
Anupam S/-