

**Court No. - 27**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 14732 of 2023

**Applicant :-** Mohit Verma

**Opposite Party :-** State Of U.P. Thru. Secy. Deptt. Of Home, Lko.

**Counsel for Applicant :-** Suyesh Pradhan

**Counsel for Opposite Party :-** G.A.

**Hon'ble Brij Raj Singh,J.**

1. Heard Suyesh Pradhan, learned counsel for the applicant, Shikhar Srivastava, learned AGA for the State and perused the record.

2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.313 of 2023, under Sections 366, 342, 376, 506 I.P.C., Police Station Sadarpur, District Sitapur.

3. Learned counsel for the applicant submitted that father of the prosecutrix lodged FIR under Section 366 IPC in which he has levelled allegation that his daughter has been enticed away by the applicant. Learned counsel has invited attention of this Court towards the statement of the prosecutrix recorded under section 161 Cr.P.C. wherein prosecutrix has stated that she is major and had gone along with the applicant to Lucknow out of her free will.

4. Learned counsel has submitted that on the pressure of her parents, the prosecutrix has given statement under Section 164 Cr.P.C. in which she has stated that she had gone to the college and applicant and his cousin brother, both asked her to talk and they had taken her to Mahmoodabad in a house of relative. She has deposed that she was made captive in the house and applicant committed rape and he proposed that he wanted to marry her.

5. Learned counsel submitted that applicant and prosecutrix both are of same age i.e. 19 years and both were of same village and there was love between them. It is further submitted that applicant has been falsely implicated on the pressure created by the parents of the prosecutrix. She has refused for medical examination. Learned counsel further submitted that it is very unnatural after looking at the FIR that no alarm was raised by the prosecutrix when she was taken by the applicant to his relative's house and if anything wrong was done why other family members of the relatives did not protest. The applicant has no criminal history. The applicant is in jail since 22.09.2023.

6. Learned AGA opposed the prayer for bail and submitted that statement of the prosecutrix under Section 164 Cr.P.C. indicates that allegation of rape has been levelled against the applicant and she was made captive in a room as such his bail is liable to be rejected.

7. Without expressing any opinion on the merits of the case, after hearing learned counsel for the parties and looking to the

argument of consent, argument that prosecutrix who was major had gone along with the applicant on a motorcycle and raised no alarm; argument that on pressure created by the parents the prosecutrix has given statement under section 164 Cr.P.C., I find it to be a fit case for bail.

8. Let the applicant, **Mohit Verma**, be released on bail in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

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 :- 14.12.2023**

Pks