

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12046 of 2024

Applicant :- Arman

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

Counsel for Applicant :- Chhaya Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Rajesh Singh Chauhan,J.

1. Heard Ms. Chhaya Tripathi, learned counsel for the applicant and Ms. Sudha Sharma, learned AGA for the State-respondents.

2. Learned counsel for the applicant submits that the present applicant has been falsely implicated and is in jail since 19.09.2024 in Case Crime No.529 of 2024 under Sections 87, 64(1) BNS, police station Bachharawan, District Raebareli.

3. Learned counsel for the applicant has drawn attention of this Court to impugned FIR, wherein the date of incident is 11.09.2024 and the FIR has been lodged on 15.09.2024, without explaining the aforesaid delay.

4. As per the FIR the present applicant is the sole accused and allegation has been levelled against him only, however, while recording statement of the prosecutrix under Sections 180, 183 BNSS, the prosecutrix narrated different story. In her statement under Section 180 BNSS she did not level any allegation of rape against the applicant, rather has stated that she had gone to Delhi with the present applicant willingly but while recording her statement under Section 183 BNSS she reiterated the story that she had gone with the applicant to Delhi and also levelled allegation of rape in such statement. The prosecutrix has further stated in her statement that applicant is willing to get married

with her and she is also willing to get married with him. She went to live with the applicant. The medical examination report has not substantiated the prosecution story.

5. In terms of the earlier order of this Court dated 19.11.2024, the prosecutrix appeared before this Court on 28.11.2024 and on that date she apprised the Court that she is not ready to get married to the applicant. Learned counsel for the applicant has submitted that on the basis of prosecution story the relation of the prosecutrix with the applicant is consensual in nature and in her statement recorded under Section 183 BNSS she has categorically stated that she is willing to get married to the applicant and also willing to live with him and no allegation of any kind whatsoever has been levelled against the applicant in her statement recorded under Section 180 BNSS, therefore, the present applicant may be enlarged on bail. He further submits that the applicant has no criminal history, charge sheet has been filed against him and if the present applicant be enlarged on bail, he undertakes that he shall cooperate in the trial proceedings and shall not misuse the liberty of bail. Further, the applicant shall abide by all terms and conditions of the bail order.

6. Learned AGA has, however, opposed the prayer for bail but could not dispute the submissions made by learned counsel for the applicant.

7. Having heard learned counsel for the parties and having perused the material on record, it transpires that the no allegation of rape was levelled against the applicant in statement recorded by the prosecutrix in her statement under Section 180 BNSS and she is willing to live with the applicant and get married to him, the applicant has no criminal history, therefore, without entering into merits of the issue; considering

the arguments of learned counsel for the parties; contents and allegations of the FIR and undertaking of the applicant that he shall cooperate in the trial proceedings and shall not misuse the liberty of bail, I find it appropriate to release the applicant on bail.

9. Accordingly, the bail application is **allowed**.

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

(i) The applicant shall file an undertaking to the effect that he / she 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 / her under Section 269 of the B.N.S., 2023.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 84 of B.N.S.S., 2023 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 / her, in accordance with law, under Section 208 of the B.N.S., 2023.

(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 351 of B.N.S.S., 2023. 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 / her in accordance with law.

(v) The applicant shall not leave India without previous permission of the court.

(Rajesh Singh Chauhan, J.)

Order Date :- 19.12.2024

Arnima