

Neutral Citation No. - 2024:AHC-LKO:85103

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12499 of 2024

Applicant :- Awadhesh Yadav

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

Counsel for Applicant :- Dheerendra Kr. Agnihotri

Counsel for Opposite Party :- G.A.

Hon'ble Rajesh Singh Chauhan,J.

1. Heard Shri Dheerendra Kumar Agnihotri, learned counsel for the applicant and Sri Nikhil Singh, learned A.G.A.-1 for the State.
2. Learned A.G.A. has filed counter affidavit, the same is taken on record.
3. The instant application has been filed seeking release of the applicant-Awadhesh Yadav on bail in Case Crime No.419/2024, under Section 70 (1), 115 (2), 127(2) B.N.S. Police Station Thakurganj, District Lucknow.
4. This Court on 03.12.2024 has passed the order, which reads as under:

"1. Heard Shri Dheerendra Kumar Agnihotri, learned counsel for the applicant, Shri Nikhil Singh, learned Additional Government Advocate-I for the State.

2. As per learned counsel for the applicant, the present applicant is languishing in jail since 12.09.2024, in Case Crime No.0419/2024, under Sections 70 (1), 115 (2), 127 (2) of B.N.S., 2023, Police Station - Thakurganj, District -Lucknow.

3. Learned counsel for the applicant has submitted that the present applicant has falsely been implicated in this case as he has not committed any offence as alleged in the prosecution story. Attention of the Court has been drawn towards the impugned F.I.R. as well as the statement of the prosecutrix wherein the allegation against the present applicant has been leveled in lighter way, inasmuch as, the main allegation has been leveled against co-accused Prakash, co-accused Kamal and co-accused Shravan Yadav. Learned counsel for the applicant has submitted that Shravan is the real brother

of the present applicant and he got married with the prosecutrix and is willing to live with her.

4. So as to know the aforesaid aspect, the presence of the prosecutrix would be required on the next date.

5. Accordingly, list this case on 18th December, 2024. On that day, the S.H.O., Police Station - Thakurganj, District - Lucknow shall ensure presence of the prosecutrix before this Court.

6. Learned A.G.A. shall communicate this order to the S.H.O. concerned for compliance.

7. In the meantime, learned A.G.A. may file objection/counter affidavit enclosing therewith the statement of other persons, whose statements have not been enclosed with this bail application.

8. While filing counter affidavit, learned A.G.A. shall enclose the copy of the F.S.L. report, the sample of which was taken on 05.11.2024 and sent to the Laboratory on 11.11.2024."

5. In compliance of the aforesaid order the prosecutrix (X) is present in Court, who has been brought before this Court by Mr. Rajeev Pratap Singh, Sub-Inspector and Miss Manisha Yadav, Sub-Inspector, Police Station Thakurganj, District Lucknow and has been identified by Sri Dheerendra Kumar Agnihotri, learned counsel for the applicant.

6. Father of the applicant, namely, Jile Ram is also present in Court and has been identified by Sri Dheerendra Kumar Agnihotri, learned counsel for the applicant.

7. The prosecutrix has stated that she has got married with the brother of the present applicant, namely, Shravan. She is ready to live with him. She has also stated that she is having one girl child of two months with Shravan, the brother of the applicant. The present applicant has not committed any offence against her.

8. The father of the present applicant and also father of Shravan, as both are real brothers, has stated that he is aware about the fact that his son Shravan has got married with the prosecutrix and the prosecutrix is his daughter-in-law (Bahu). His son Shravan and he shall take care of prosecutrix and her child properly.

9. Learned A.G.A. has stated that since the prosecutrix has stated that she has got married with the brother of the present applicant,

namely, Shravan, therefore, any appropriate order may be passed in the interest of prosecutrix.

10. Having considered the submissions of prosecutrix as well as the father of the present applicant, I find it appropriate that the present applicant may be released on bail. Since the prosecutrix has not levelled any allegation against the applicant, therefore, this is further reason to consider the bail of the present applicant.

11. Accordingly, the instant bail application is **allowed**.

12. Let the applicant-**Awadhesh Yadav** 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 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 IPC/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 82 Cr.P.C./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, in accordance with law, under Section 174-A IPC/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 313 Cr.P.C./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 in accordance with law. The present applicant shall not leave the country without prior permission of the Court.

[Rajesh Singh Chauhan,J.]

Order Date :- 18.12.2024

Arvind