

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13252 of 2024

Applicant :- Akhilesh Kumar

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home And 3 Others

Counsel for Applicant :- Sumit Chauhan

Counsel for Opposite Party :- G.A.

Hon'ble Rajesh Singh Chauhan,J.

1. Sri Ankit Kumar Yadav, Advocate has filed his Vakalatnama on behalf of the complainant/informant. The same is taken on record.
2. Heard Sri Sumit Chauhan, learned counsel for the applicant as well as Sri Ankit Kumar Yadav and Sri Arun Verma, learned Additional Government Advocate for the State.
3. The complainant is present in the Court.
4. As per learned counsel for the applicant, the present applicant is languishing in jail since 30.08.2024 in Case Crime No. 24/2022, under Sections 363, 366, 376 (3) I.P.C. Section 5 (J) (2) /6 Protection of Children from Sexual Offences Act, 2012 and Section 3 (2) (5) S.C./S.T. Act, Police Station Mohammadi, District Kheri.
5. Learned counsel for the applicant has stated that initially the F.I.R. was lodged under Section 363 and 366 I.P.C., but after completion of investigation charge-sheet has been filed in various Sections of I.P.C. as well as Protection of Children from Sexual Offences Act, 2012.
6. Learned counsel for the applicant has further stated that the present applicant has got married with the prosecutrix and with the aforesaid wedlock they have been blessed two children. One is aged about two years and another is aged about five months. As per Educational Certificate now the age of the prosecutrix is 18 years and 3 months. The prosecutrix is living with the family members of the present applicant and the family members of the present applicant are looking after the prosecutrix and her children. The prosecutrix is willing to live with them.
7. The complainant, who is present in Court has stated that his real sister/prosecutrix has got married with the applicant and is presently living with the family members of the applicant along with her children.

8. Learned counsel for the applicant has further stated that though at the time of marriage had not attained the marriageable age, but they got married and now are parents of two children. The applicant undertakes that he shall take care of her and his children properly, if he is released on bail. He further prays that the applicant may be enlarged on bail. The present applicant has no previous criminal history and the charge sheet has been submitted in the case.

9. Learned counsel for the applicant has undertaken on behalf of the present applicant that the applicant shall not misuse the liberty of bail, if so granted by this Court and shall abide by all terms and conditions of the bail order and shall cooperate with the trial proceedings.

10. Learned Additional Government Advocate has, however, opposed the prayer for bail and stated that at the time of commission of offence the prosecutrix was minor, therefore, any appropriate order may be passed protecting the interest of the prosecution.

11. Therefore, without entering into the merits of the issue and considering the arguments of learned counsel for the parties and statement of the complainant, particularly considering the fact that the prosecutrix has got married with the applicant and is presently having two children with whom she is living with the family members of the applicant, I find it a fit case for bail. Accordingly, the bail application is **allowed**.

12. Let the **applicant- Akhilesh Kumar** 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 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, 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 in accordance with law.

(Rajesh Singh Chauhan,J)

Order Date :- 20.12.2024

Arvind