Court No. - 90

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 33093 of 2020

Applicant :- Sandeep Kushwaha
Opposite Party :- State of U.P.
Counsel for Applicant :- Rajeev Kumar Sharma
Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

Heard learned counsel for the applicant; learned A.G.A. for the State and perused the material on record.

The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.108 of 2020, under Sections 366, 363 and 376 I.P.C. and Section 3/4 POCSO Act, Police Station Kotwali Nagar, District Banda, during pendency of the trial.

As per F.I.R. the applicant enticed away the minor daughter of informant on 16.02.2020. Learned counsel for the applicant submitted that the applicant is innocent and has been falsely implicated in the present case; as per statement recorded under Sections 161 Cr.P.C. and 164 Cr.P.C., no case is made out against the applicant; the victim went with the applicant of her own free will and solemnized marriage with him; the statement recorded under Sections 161 Cr.P.C. and 164 Cr.P.C. are not corroborating the facts narrated in the F.I.R. Moreover, there is no prospect of trial of the present case being concluded in near future due to heavy dockets. The applicant is not a previous convict. It is next submitted that there is no possibility of fleeing away of the applicant from the judicial custody or tampering with the witnesses and, in case, the applicant is enlarged on bail, the applicant shall not misuse the liberty of bail. It is also contended that the applicant is languishing in jail since 23.06.2020

Per contra, learned A.G.A. opposed the bail prayer of the applicant.

Considering the facts and circumstances of the case, submissions advanced by learned counsel for the parties and the statement of the victim under Sections 161 Cr.P.C. and 164 Cr.P.C., and evidence on record regarding complicity of the accused and the view laid down by the Apex Court in the case of **Dataram Singh Vs. State of U.P. and another** reported in **(2018) 3 SCC 22** and without expressing any opinion on the

merits of the case, the applicant is entitled for bail. The bail application is allowed.

Let the applicant-Sandeep Kushwaha, be released on bail on his furnishing a personal bond and two local sureties each of the like amount to the satisfaction of the court concerned, subject to the following conditions. Further, before issuing the release order, the sureties be verified :-

1. The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.

2. The applicant shall cooperate in the trial sincerely without seeking any adjournment.

3. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

4. The applicant shall remain present, in person, before the trial court on the dates fixed. 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.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad.

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing. In case of breach of any of the above conditions, it shall be a ground of cancellation of bail.

Order Date :- 26.11.2020
Meenu