Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 9460 of 2024

Applicant :- Sadanand
Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt. Lko. And 3 Others
Counsel for Applicant :- Niyaj Ahmad
Counsel for Opposite Party :- G.A.,Ashish Kumar Shukla

Hon'ble Karunesh Singh Pawar,J.

Heard learned counsel for the applicant, learned Additional Government Advocate for the State, learned counsel for the complainant and perused the record.

This is second bail application.

This bail application has been filed by accused-applicant seeking bail in Case Crime No.179 of 2022, under Sections 376, 504, 506 IPC and Section 5/6 of Protection of Children From Sexual Offences Act, 2012, P.S. Baskhari, District Ambedkar Nagar.

Learned counsel for the applicant submits that the applicant is in jail since 28.06.2022. He further submits that six prosecution witnesses have been examined so far. The trial has not concluded yet. He has no criminal history. In this regard, specific pleading has been made in para 19 of the bail application. In support of his contention, he has relied on the judgment of Hon'ble Supreme Court in the case of **Javed Gulam Nabi Shaikh vs. State of Maharashtra and another: Criminal Appeal No.2787 of 2024** and emphasized on para 18 and 19 of the said judgment.

Learned A.G.A. as well as learned counsel for complainant have opposed the prayer of applicant. Learned A.G.A. submits that six prosecution witnesses have been examined and as per his instruction, only two are proposed to be examined and trial will not take much time. He further submits that from the DNA examination, it has been confirmed that applicant is biological father of the newly bond child. He also submits that after this report, there are highly any chance of acquittal of the applicant. It is further submitted that the judgment of **Javed Gulam Nabi Shaikh** (supra) was given in peculiar facts which are not available in this case. He also submits that prosecution

witnesses have supported the prosecution case.

Perusal of the record shows that from the DNA examination, it is confirmed that applicant is biological father of the newly bond child and on this ground second application of the applicant was rejected. The trial is already expedited by the previous order of this Court while rejecting the first bail application vide order dated 08.02.2024. No fresh order is required to be passed. So far the case of **Javed Gulam Nabi Shaikh** (supra) is concerned, in that case directions were issued in para 18 and 19 keeping in view the fact that the applicant was in jail as an under trial prisoner for past four years and by the date the judgment was passed even the charges were not famed by the trial court and the prosecution intended to examine not less than eighty prosecution witnesses whereas in this case only two witnesses are left to be examined and considering the FSL report, which is corroborative scientific medical evidence supporting the prosecution case, I am not inclined to enlarge the applicant on bail.

The second bail application is rejected.

Let a copy of this order be sent to the Special court forthwith.

Order Date :- 10.12.2024
Renu/-

Digitally signed by :-
RENU AGARWAL
High Court of Judicature at Allahabad,
Lucknow Bench