

Court No. - 43

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 16315 of 2021

Applicant :- Sonu Rajpoot @ Zubair

Opposite Party :- State of U.P.

Counsel for Applicant :- Syed Shahnawaz Shah

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal,J.

The matter has been taken up through Video Conferencing.

Heard Sri Syed Shahnawaz Shah, learned counsel for the applicant, Sri Virendra Kumar Maurya, learned A.G.A. for the State who have appeared through Video Conferencing and perused the material on record.

This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant-Sonu Rajpoot @ Zubair, seeking enlargement on bail during trial in connection with Case Crime No.596 of 2020, u/s 376, 420, 506 I.P.C. and 3/5 U.P. Prohibition of Unlawful Religion Conversion Act, registered at Police Station Nauchandi, District Meerut.

Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is further argued that although in the text of the FIR the victim who is the first informant herself has not disclosed her age but she has stated that she is a working person. It is further argued that in the Chik FIR, her year of birth has been mentioned as 1995 which goes to show that she is major. It is further argued that the occurrence of the present case is said to have taken place on 28.11.2020 whereas the FIR has been registered on 29.12.2020 which is after a delay of more than a month and the same is unexplained. It is further argued that the victim on her own free-will travelled with the applicant as is evident from the FIR itself as both of them had love affair and used to spend time together but then she states that on the day of occurrence the applicant established physical relationship against her wishes. It is further argued that even thereafter the applicant remained silent for more than a month then lodged the FIR. It is further argued that although the medical examination of the victim was conducted on 4.1.2021 and as such the doctor has opined that there are no signs of use of force. It appears that there was some dispute between the applicant and the girl relating to cast and as such their relationship could not materialize as the victim states that initially she did not know that the applicant was a Muslim but when she saw his name written in the register of the hotel where she had gone with the applicant and physical relation was established between them as Zubair, S/o Chand then she

came to know that he was a Muslim and then dispute arose between them. The victim is a major girl and working and as such was very well aware of worldly affairs. It is further argued that the first informant was a consenting party with the applicant and used to spend time with him out of her own volition. It has also been pointed out that the applicant is not having any criminal history as stated in para 19 of the affidavit and is in jail since 4.1.2021.

Per contra learned A.G.A. has opposed the prayer for bail and argued that the applicant is named in the FIR and there is allegation that he committed rape upon her in a room of a hotel. The prayer for bail be rejected.

After hearing the counsel for the parties and perusing the record, it is apparent that the victim/first informant is a major girl. The applicant and the first informant/victim were in relationship since long and she used to spend time with the applicant and used to travel with him and went to a room of a hotel on her own sweet-will.

Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicant may be enlarged on bail.

Let the applicant-Sonu Rajpoot alias Zubair be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date 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.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. 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., may be issued and if 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 I.P.C.

(v) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. 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 and the trial court may proceed against him under Section 229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicant to prison.

The bail application is allowed.

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

The computer generated copy of such order shall be self attested by the counsel of the party concerned.

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.

(Samit Gopal, J.)

Order Date :- 27.5.2021

Gaurav