

Court No. - 9

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 29497 of 2024

Applicant :- Mohd Shane Alam

Opposite Party :- State of U.P.

Counsel for Applicant :- Nand Kishor Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Rohit Ranjan Agarwal,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.
2. By means of the present bail application, the applicant seeks bail in Case Crime No.183 of 2024, under Section 3/5(1) of U.P. Prohibition of Unlawful Conversion of Religion Act, 2021, Police Station- Ankur Vihar, District- Ghaziabad, during the pendency of trial.
3. It is contended by learned counsel for the applicant that the applicant is Maulana/Religious Priest and he had only performed Nikah of the Informant with the accused Amaan and had not forcibly converted the Informant to "Islam". He does not have any criminal history and is languishing in jail since 02.06.2024. He has further relied upon Nikaahnama dated 11.03.2023 which bears the stamp and his signature and beyond that, he has no role to play.
4. Sri Sunil Kumar, learned A.G.A. while opposing the bail application submits that the victim, who is the First Informant, had deposed under Section 164 Cr.P.C. that she was working in a Company. The accused Amaan had physically exploited her and forced her to accept "Islam" and Nikaah was performed on 11.03.2024 which was done by the 'Religion Converter', the applicant.

5. I have heard learned counsel for the applicant and perused the material on record.

6. The Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021 (*hereinafter called as "Act, 2021"*) received the assent of the Governor on 4th March, 2021 and was published in Gazette on 05.03.2021. The statement of objects and reasons for enacting this Act was to sustain the spirit of secularism in India. The Constitution of India guarantees the religious freedom to all persons which reflects the social harmony and spirit of India. According to the Constitution, State has no religion and all religions are equal before the State and no religion shall be given preference over the other. All persons are free to preach, practice and propagate any religion of their choice. Constitution confers on each individual the fundamental right to profess, practice and propagate his religion.

7. However, in the recent past many such examples came to light where gullible persons have been converted from one religion to another by misrepresentation, force, undue influence, coercion, allurement or by fraudulent means.

8. Section 2(a), (b), (c), (d) & (i) of the Act, 2021 define 'Allurement', 'Coercion', 'Conversion', 'Force', 'Religion Convertor'. 'Allurement' means and includes offer of any temptation in the form of any gift, gratification, easy money or material benefit either in cash or kind; employment, free education in reputed school run by any religious body; or better lifestyle, divine displeasure or otherwise. "Coercion" means compelling an individual to act against his/her will. "Conversion" means renouncing one's own religion and adopting another religion.

'Force' includes a show of force or a threat of injury of any kind to the person converted or sought to be converted or to any other person or property impersonation.

9. Similarly, "Religion Convertor" means person of any religion who performs any act of conversion from one religion to another religion and by whatever name he is called such as Father, Karmkandi, Maulvi or Mulla etc.

10. Section 3 prohibits conversion from one religion to another religion by misrepresentation, force, fraud, undue influence, coercion and allurement.

11. Section 8 of the Act, 2021 provides that any person who desires to convert his/her religion, shall give a declaration in the form prescribed in Schedule -I at least sixty days in advance, to the District Magistrate or the Additional District Magistrate specially authorized by the District Magistrate, that he wishes to convert his/her religion on his/her own and with his/her free consent and without any force, coercion, undue influence or allurement.

12. In the instant case, the applicant, who comes under the definition of "Religion Convertor", as defined in Section 2(i) of Act, 2021, had got the Nikaah ceremony of the Informant performed with accused Amaan. The necessary declaration has to be obtained before conversion, given in Section 8 of Act, 2021 was not obtained from the District Magistrate, as mandated under the Act, 2021. Defiance of the provision of the Act, 2021 is punishable under Section 5 of Act, 2021.

13. The victim/Informant in her statement recorded under Section 164 Cr.P.C. had categorically submitted that she was forced to

accept 'Islam' and Nikaah was performed. The applicant being "Religion Converter" is equally liable under the Act, 2021.

14. I find that *prima facie* an offence under Act, 2021 is made out. No case for bail is made out.

15. The bail application stands rejected.

Order Date :- 20.8.2024

Kushal