

Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 56177 of 2023

Applicant :- Arvind

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Imtyaz Ahmad

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh,J.

1-Heard learned counsel for the applicant and learned Additional Government Advocate representing the State.

2-By means of this application under Section 439 of Cr.P.C., applicant-Arvind who is involved in Case Crime No. 151 of 2023, under Sections 376(2)N, 376(3), 328, 452, 323, 506 I.P.C. and Section 5L, 5J/6 and 4(2) POCSO Act, Police Station Kyoladiya, District Bareilly seeks enlargement on bail during the pendency of trial.

3-As per prosecution case in brief, complainant who is mother of the victim has lodged an F.I.R. on 09.07.2023 with regard to an incident which took place on 04.07.2023 for the alleged offence under Sections 376(2)N, 328, 120-B, 506, 452, 323 I.P.C. and Sections 5L, 5J(ii) and 6 POCSO Act against the applicant and his family members making allegation inter-alia of rape with specific allegation that from the relation of the applicant, victim became pregnant and on the day of lodging F.I.R., she was having pregnancy of four months.

4-It is argued by learned counsel for the applicant that in order to ascertain the biological father of baby of the victim, samples for DNA examination were collected and as per DNA report, applicant and victim were found to be biological parents of baby of the victim. Thereafter vide order dated 30.07.2024, at the request made on behalf of the applicant that the applicant is ready to marry with the victim and he will also take care of her child, he was granted interim bail subject to condition that if the marriage

does not take place, then the applicant will surrender before the concerned court on or before 20.11.2024. Since the marriage of the applicant and victim could not take place, therefore, the applicant had surrendered before the concerned court on 20.11.2024 and since then he is languishing in jail. Lastly it is submitted by learned counsel for the applicant that considering the detention period of the applicant, he may be enlarged on bail.

5-Learned A.G.A. opposed the prayer for bail of the applicant by reiterating the prosecution case as mentioned in the F.I.R. by contending that the allegation against the applicant is heinous in nature, therefore, the bail application of the applicant is liable to be rejected.

6-Having heard learned counsel for the parties and examined the matter in its entirety, I find that it is not in dispute that on account of making forceful physical relation by the applicant with the victim, she became pregnant and delivered a child. In the DNA report, applicant was found biological father of baby of the victim, hence, prima-facie I do not find any good ground for false implication of the applicant.

7-Sexual violence apart from being a dehumanizing act is an unlawful intrusion of the right to privacy and sanctity of a female. It is a serious blow to her supreme honour and offends her self esteem and dignity. It degrades and humiliates the victim and where the victim is a helpless innocent child, it leaves behind a traumatic experience. It is often stated that a woman who is raped undergoes two crises- the rape and the subsequent trial. While the first seriously wounds her dignity, curbs her individual, destroys her sense of security and may often ruin her physically, the second is no less potent of mischief inasmuch as it not only force her to re-live through the traumatic experience, but also does so in the glare of publicity in a totally alien atmosphere, with the whole apparatus and paraphernalia of the criminal justice system focused upon her.

8-Considering the overall facts and circumstances of the case as well as keeping in view the submissions advanced on behalf of parties, gravity of offence, role assigned to applicant severity of punishment and DNA report, I do not find any good ground to release the applicant on bail.

9-Accordingly, the bail application is rejected.

10-It is made clear that the observation contained in the instant order is confined to the issue of bail and shall not affect the merit of the trial.

Order Date :- 7.1.2025

Saurabh