

Court No. - 10

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10567 of 2022

Applicant :- Monu

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko. And 3 Others

Counsel for Applicant :- Azmi Yousuf, Priyanka Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

2. The present bail application under Section 439 Cr.P.C. has been filed by the applicant seeking bail in FIR No.00071 of 2022 under Sections 363, 366, 376 IPC, 3/4 POCSO Act, Police Station Neemgaon, District Kheri.

3. As per the allegations in the FIR, the prosecutrix was enticed away by the accused-applicant in the night of 22-23.03.2022. Medical age of the prosecutrix has been determined to be 17 years. The prosecutrix has delivered a girl child, one month old.

4. In compliance of the order dated 15.09.2022, the prosecutrix along with her father are present in the Court. They have said that they have no objection if the accused-applicant is enlarged on bail provided that the accused-applicant performs marriage with the prosecutrix in accordance with the Hindu rites and rituals and get the marriage registered. He would give all rights to prosecutrix and the child as his wife and daughter.

5. Ms.Azmi Yusuf, learned counsel for the accused-applicant submits that the accused-applicant is ready and willing to marry the prosecutrix. Infact, they eloped to perform the marriage as they were in love and as soon as the accused-applicant comes out of the jail, he will perform the marriage with the prosecutrix and also get the same registered.

6. Considering the stand of the prosecutrix and her father and taking into consideration the fact that the prosecutrix has already delivered a child from the accused-applicant, who has been in jail since 10.04.2022, and, without expressing any opinion on the merit of the case, I find it to be a fit case for granting bail.

7. Let applicant Monu be released on bail in the aforesaid case on his furnishing a personal bond and two sureties of the like amount to the satisfaction of the Magistrate/Court concerned, subject to following conditions :-

(i) Soon after the accused-applicant comes out of jail on bail, he will perform the marriage within 15 days from the date of release with the prosecutrix and get the same registered before the appropriate officer within a period of one month from

the date of performing the marriage. He will give all rights to the prosecutrix and his child as wife and daughter.

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

(iii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iv) 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. is issued and the 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 of the Indian Penal Code.

(v) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) 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.

Order Date :- 10.10.2022
prateek