

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 3102 of 2025

Applicant :- Pomi @ Sami

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

Counsel for Applicant :- Shiva Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Learned A.G.A. has informed that the notice to the informant has been served on 25.01.2025.
3. Heard Sri Shiva Tripathi, learned counsel for the applicant, Sri Ashutosh Srivastava, learned A.G.A. for the State and perused the material placed on record.
4. Applicant seeks bail in Case Crime No.504 of 2024, under Section 70(2) B.N.S., 5(g)/6 POCSO Act and 3(2)(V) SC/ST Act, Police Station Tronika City, District Ghaziabad, during the pendency of trial.
5. Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case. The FIR was instituted by the informant against the applicant and three other persons. The statement of the victim recorded under Section 183 B.N.S.S. negates the said allegations made in the FIR rather it states that the victim had corporeal relationship with one Chand and he had promised to marry her and had subsequently refused to comply with the said promise. The victim has not whispered a single word against the applicant in the said statement. There is no criminal history of the applicant. The applicant is languishing in jail since 14.10.2024 and he is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.
6. Learned A.G.A. has vehemently opposed the bail application.
7. The Supreme Court in **Pramod Suryabhan Pawar vs. State of Maharashtra and Another, 2019 (9) SCC 608** and **Ansaar Mohammad vs. State of Rajasthan and Another, 2022 SCC OnLine SC 886**, has stated that entering into any kind of corporeal relationship with a person on the false promise to

marry cannot be termed as rape.

8. This Court has avoided expressing its opinion as the case hinges on whether the applicant's promise of marriage was genuine or false and whether the physical relationship was consensual or not. It is for the Trial Court to draw a conclusion which will depend on the evidence presented before it and its interpretation as per law.

9. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, and taking into consideration the settled law of the Supreme Court passed in **Satender Kumar Antil vs. Central Bureau of Investigation and Ors., 2022 INSC 690** and **Manish Sisodia vs. Directorate of Enforcement, 2024 INSC 595** and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is **allowed**.

10. Let the applicant- **Pomi @ Sami**, who is involved in aforementioned case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall not tamper with evidence.

(ii) 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./351 B.N.S.S. 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.

11. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

12. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

Order Date :- 19.2.2025

(Ravi Kant)

(Justice Krishan Pahal)