

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44859 of 2024

Applicant :- Raju Kumar

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

Counsel for Applicant :- Jitendra Kumar Mishra, Puneet Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Puneet Kumar, learned counsel for the applicant, Sri Anit Kumar Shukla, learned A.G.A. for the State as well as perused the material placed on record.
3. Learned A.G.A. has informed that the notice to the informant has been served on 05.12.2024 but none is present on behalf of the informant.
4. Applicant seeks bail in Case Crime No. 226 of 2024, under Sections 363, 366, 376(3) I.P.C. and Section 5L/6 of POCSO Act, Police Station Chaubeypur, District Varanasi, 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. He has nothing to do with the said offence. It is further stated that the victim is a consenting party as is but evident from her statement recorded under Section 164 Cr.P.C. The victim herself has stated her age to be 15 years. She has stated that she had gone with the applicant all the way to Gujrat and remained there and married the applicant in a temple. The victim by her physical appearance seems to be major.
6. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length.
7. There is no criminal history of the applicant. The applicant is languishing in jail since 29.04.2024 and he is ready to cooperate with trial. In case, the applicant is released on bail, he will not misuse the liberty of bail.
8. Learned A.G.A. has vehemently opposed the bail application.

9. In light of the judgement of the Supreme Court passed in ***Niranjan Singh and another vs Prabhakar Rajaram Kharote and others AIR 1980 SC 785***, this Court has avoided detailed examination of the evidence and elaborate documentation of the merits of the case as no party should have the impression that his case has been prejudiced. A *prima facie* satisfaction of case is needed but it is not the same as an exhaustive exploration of the merits in the order itself.

10. 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**.

11. Let the applicant- **Raju Kumar**, 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. 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.

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

13. 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 :- 28.2.2025

Sumit S

(Justice Krishan Pahal)