

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 3502
of 2024

Applicant :- 

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

Counsel for Applicant :- Sarjoo Ram,Aklavya,Dinesh Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Rajesh Singh Chauhan,J.

1. Shri Arvind Kumar, Advocate has filed his Power and short counter affidavit on behalf of the complainant and the same are taken on record.

2. Heard Shri Sarjoo Ram, learned counsel for the applicant, Shri N.K. Pandey, learned AGA for State-respondents and Shri Arvind Kumar, learned counsel for complainant.

3. Learned counsel for applicant has stated that the present applicant is in jail since 02.01.2024 in Case Crime No. 458 of 2023 under Sections 363, 366, 376(3) I.P.C. and Sections 5(J) (2), 6 of the POCSO Act at police station Kandhai, District Pratapgarh.

4. He has further submitted that applicant has been falsely implicated as he has not committed any offence as alleged in the FIR. As a matter of fact, the present applicant and prosecutrix were in an affair and the applicant was willing to get married with the prosecutrix. Learned counsel for the applicant has stated that since the present applicant and prosecutrix were living as husband and wife therefore on account of such relation, the prosecutrix gave birth to a child who is presently aged one month and fourteen days. Learned counsel for the applicant has stated that since the prosecutrix belongs to another religion, her family members have lodged false and misconceived FIR against the applicant.

5. Attention has been drawn towards the statement of prosecutrix under Section 164 Cr.P.C. wherein she has stated that she is in relation with the applicant, with whom she wants to get married. In such statement she has stated that she is pregnant and the child would be the child of the present applicant Dhiraj. Learned counsel for the applicant has further submitted that as soon as the applicant is released on bail, he shall immediately get married with the prosecutrix and shall get their marriage registered before the Registrar of Marriage.

6. Learned counsel for the informant/ complainant have also stated that the prosecutrix was in relation with the applicant and she gave birth to a child who is the child of the present applicant. He further submits on the basis of instructions that any appropriate orders be passed.

7. Shri N.K. Pandey, learned AGA has stated that though the prosecutrix has not attained the marriageable age, as she is about 17 years old as per radiological test, but if she has given birth to a child of the present applicant and both are willing to get married and live together, therefore, any appropriate order may be passed.

8. Having heard learned counsel for parties, having perused the material on record and without entering into merits of the issue, I find it appropriate that the present applicant **Dhiraj be enlarged on interim bail till 03.07.2024** in the aforesaid case crime number with the following conditions:-

(i) The present applicant shall furnish a personal bond of Rs.20,000/- and two sureties of such amount before the trial Court concerned.

(ii) After the present applicant completes the aforesaid formalities, he shall be released from jail on interim bail.

(iii) Immediately after release from jail the applicant shall get married with the prosecutrix within a period of 15 days from the date of release.

(iv) Thereafter both the applicant and prosecutrix shall get their marriage registered before the Registrar of Marriage within further period of 15 days. Both shall apply for registration of their marriage before the Registrar of Marriage and if all necessary formalities are completed by them, the Registrar of Marriage shall register the marriage at the earliest.

(v) Such marriage certificate shall be produced by the applicant and prosecutrix before the Court on the next date fixed, i.e. 03.07.2024.

(vi) For the period of interim bail, the applicant shall not leave the country and shall participate in the trial proceedings as and when the date is fixed before the Court concerned.

(vii) If the present applicant violates any of the aforesaid conditions, the prosecutrix or her family members may lodge complaint against the applicant and in that case the interim bail of the present applicant may be treated as cancelled and he may be taken into judicial custody by the authorities concerned.

9. The name of Shri Arvind Kumar, Advocate be shown when the case is next listed.

10. List this case on 03.07.2024, on which date the applicant and prosecutrix shall appear in person along with their marriage certificate.

(Rajesh Singh Chauhan, J.)

Order Date :- 29.4.2024

Arnima