

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43427 of 2019

Applicant :- Rizwan

Opposite Party :- State Of U.P.

Counsel for Applicant :- Manish Joshi

Counsel for Opposite Party :- G.A.

Hon'ble Rahul Chaturvedi,J.

Sri J.S. Malviya and Sri Ravindra Kumar, Advocates, has filed Vakalatnama on behalf of first informant which is taken on record.

Heard learned counsel for the applicant, learned AGA for the State and perused the material on record.

By means of this application, the applicant who is involved in case crime no. 368 of 2019, under Section 376 IPC and Section 3/4 POCSO Act, P.S. Munda Pandey, District Moradabad, is seeking enlargement on bail during the trial.

Learned counsel for the applicant submits that the victim is aged about 17-18 years and she was having relationship with the applicant on the false promises by the applicant to marry with her. She understand the future and pre-marriage sex, even after knowing its result she was in consensual relationship from last one year with her fiancée. He has relied upon the decision in **Pramod Suryabhan Panwar vs. State of Maharastra, 2019 Law Suit (SC) 1504 decided on 21st August, 2019**. He lastly submitted that the applicant is in jail since 16.06.2019, is entitled to be enlarged on bail during the pendency of trial.

Per contra learned AGA opposed the prayer for bail and could not dispute the aforementioned facts.

Considering the submissions made by learned counsel for the applicant as well as learned AGA and without expressing any opinion on the merits of the case, I find it to be a fit case for bail.

In view of the above, let the applicant- **Razwan**, be released on bail on his executing a personal bond and furnishing two sureties each in the like amount to the satisfaction of the court concerned in case crime no. 368 of 2019, under Section 376 IPC and Section 3/4 POCSO Act, P.S. Munda Pandey, District Moradabad, with the following conditions:-

(i) THE APPLICANT SHALL FILE AN UNDERTAKING TO THE EFFECT THAT THEY SHALL NOT SEEK ANY ADJOURNMENT ON THE DATE 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.

(ii) THE APPLICANT SHALL REMAIN PRESENT BEFORE THE TRIAL COURT ON EACH DATE FIXED, EITHER PERSONALLY OR THROUGH THEIR COUNSEL. IN CASE OF THEIR ABSENCE , WITHOUT SUFFICIENT CAUSE, THE TRIAL COURT MAY PROCEED AGAINST HIM UNDER SECTION 229-A IPC.

(iii) IN CASE, THE APPLICANT MISUSE THE LIBERTY OF BAIL DURING TRIAL AND IN ORDER TO SECURE HIS PRESENCE PROCLAMATION UNDER SECTION 82 CR.P.C., MAY BE ISSUED AND IF 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 IPC.

(iv) 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 APPLICANTS ARE 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.

(v) THE TRIAL COURT MAY MAKE ALL POSSIBLE EFFORTS/ENDEAVOUR AND TRY TO CONCLUDE THE TRIAL WITHIN A PERIOD OF ONE YEAR AFTER THE RELEASE OF THE APPLICANTS.

However, it is made clear that any violation of above conditions by the applicant, shall have serious repercussion on his/her bail so granted by this court and the trial court is at a liberty to cancel the bail, after recording the reasons for doing so, in the given case of any of the condition mentioned above.

Order Date :- 19.10.2019

v.k.updh.