

Deepak Maurya vs State Of U.P. Thru. Secy. Home Deptt. ... on 31 January, 2025

Author: Rajesh Singh Chauhan

Bench: Rajesh Singh Chauhan

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:6886

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 991 of 2025

Applicant :- Deepak Maurya

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

Counsel for Applicant :- Vijay Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Rajesh Singh Chauhan,J.

1. Heard Sri Vijay Kumar, learned counsel for the applicant, Sri Rajnish Kuamr Verma, learned A.G.A. for the State and Sri Ajay Kumar Chaudhary, Advocate who has filed 'Vakalatnama' and counter affidavit on behalf of informant, same are taken on record.

2. It has been contended by the learned counsel for the applicant that the applicant is in jail since 27.10.2024 in Case Crime No. 412 of 2024 u/s 137(2), 87, 64(2) M BNS and 5(L)/6 POCSO Act, P.S. Kotwali Dehat, District Balrampur. It has been submitted that the applicant has been falsely implicated in this case as he has not committed any offence as alleged.

3. Attention has been drawn towards the statement of the prosecutrix recorded u/s 180 and 183 BNSS wherein she has categorically stated that she was in affairs with the applicant and had left her home and gone with the applicant from Gonda to Lucknow. Thereafter, they reached to Bangalore through train where she married with the applicant in one temple and started living as wife and husband. Learned counsel has further submitted that the present applicant was under bonafide impression that the prosecutrix has attained the marriageable age, however, presently she is aged about 17 years and 8 months.

4. Learned counsel for the complainant has also stated that the complainant has no objection, if the present applicant and prosecutrix live together as husband and wife. The complainant is aware about the fact that both have got married.

5. Learned counsel for the petitioner has also submitted that since the applicant and prosecutrix are willing to live together as husband and wife and the complainant has no objection then he may be enlarged on bail. The applicant has no prior criminal history of any kind whatsoever.

6. The learned counsel for the applicant has given an undertaking on behalf of applicant that the applicant shall not misuse the liberty of bail and shall cooperate with the trial proceedings and shall abide by all terms and conditions of bail, if granted.

7. Learned A.G.A. opposed the prayer for bail though he has submitted that the present prosecutrix has not attained the marriageable age.

8. Without entering into the merits of the case and considering the arguments of learned counsel for the parties, contents and allegations of the F.I.R., the fact that in the statement of the prosecutrix recorded u/s 180 and 183 BNSS she has categorically stated that she was in affairs with the applicant and had left her home and gone with the applicant from Gonda to Lucknow and thereafter at Bangalore she married with the applicant in one temple and started living as wife and husband, the present applicant was under bonafide impression that the prosecutrix has attained the marriageable age, however, presently she is aged about 17 years and 8 months, the complainant has no objection, if the present applicant and prosecutrix live together as husband and wife, the complainant is aware about the fact that both have got married, the applicant has no prior criminal history of any kind whatsoever and the undertaking given on behalf of the applicant that he shall not misuse the liberty of bail and shall cooperate in the trial proceedings, the applicant is entitled to be released on bail in this case.

9. Bail application is allowed.

10. Let the applicant Deepak Maurya, involved in aforesaid 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 with the following conditions which are being imposed in the interest of justice:-

(i) As soon as the prosecutrix attains the marriageable age the applicant and prosecutrix shall register their marriage before the Marriage Registering Authority

and such certificate shall be shown to the learned trial court during the trial proceedings.

(ii) The applicant shall file an undertaking to the effect that he / she 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 / her under Section 269 of the B.N.S., 2023.

(iv) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 84 of B.N.S.S., 2023 may be issued and if the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him / her in accordance with law, under Section 208 of the B.N.S., 2023.

(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 351 of B.N.S.S., 2023. 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 / her in accordance with law.

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(Rajesh Singh Chauhan, J.) Order Date :- 31.1.2025 Om