

Mohd Sufiyan vs State Of U.P. on 6 January, 2025

Author: Sanjay Kumar Singh

Bench: Sanjay Kumar Singh

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:2425

Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41363 of 2024

Applicant :- Mohd Sufiyan

Opposite Party :- State of U.P.

Counsel for Applicant :- Shashi Prakash Misra

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh,J.

Heard learned counsel for the applicant and learned Additional Government Advocate representing the State.

By means of this bail application under Section 439 Cr.P.C. applicant - Mohd. Sufiyan, who is involved in Case Crime No. 211 of 2024 under sections 115(2), 352, 351(3) & 69 Bhartiya Nyaya Sanhita, 2023 Police Station Belharkala, District Sant Kabir Nagar, seeks enlargement on bail during the pendency of trial.

As per the prosecution case in brief, the victim got a First Information Report lodged on 18th September, 2024 with regard to an incident dated 01st July, 2024 for the alleged offence under Section 191 (2), 115(2), 352, 351(3), 127(2) & 69 Bhartiya Nyaya Sanhita, 2023 against the applicant

and his family members through an application under Section 156(3) Cr.P.C. with the allegation inter alia that applicant took her to Mumbai a few days ago by luring her with the forcibly started having physical relations with her.

The main substratum of argument of learned counsel for the applicant is that the applicant has been falsely implicated in the present case. The victim in order to settle her personal score has lodged the First Information Report on the false facts against the applicant with a view to mount pressure upon him to marry her, whereas she is a married lady. Her marriage was solemnized four years back with Asif Ali and from the wedlock of Asif Ali, she gave birth to a male child namely Mohd. Ansar, who is aged presently about three years. Much emphasis has been given by contending that it is not a case of rape, but as per the prosecution case itself, it is a case of consensual relation between the applicant and the victim. The applicant is languishing in jail since 03rd October, 2024 having no criminal history, therefore, he may be enlarged on bail.

On the other hand, learned Additional Government Advocate opposed the prayer for bail in the light of the facts mentioned in the F.I.R., but does not dispute the factum of the case as argued on behalf of the applicant.

Having heard the submissions of learned counsel for the parties and perusing the records, I find that it is not in dispute that the victim is a married lady and is mother of a son aged about three years. She has made allegations that when she had come to her parental house (Maika) she was enticed away by the applicant and took her to Mumbai and made physical relations with her. I also find that the victim has travelled along with the applicant from District Sant Kabir Nagar to Mumbai and she was in the company of applicant for about fifteen days, but she did not raise alarm whereas she had an ample opportunity to protest. This Court is of the view that if a married woman having experience in sex does not offer resistance, it cannot be said that her physical relation with a man was against her will. She was capable to understand the significance and morality associated with the act, for which she was consenting to. Under the facts and circumstances of the case, possibility of false implication of the applicant cannot be ruled out.

Hence, the bail application is hereby allowed.

Let the applicant-Mohd. Sufiyan be released on bail in the aforesaid case crime number on 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) That the applicant shall cooperate in the expeditious disposal of the trial and shall regularly attend the court unless inevitable.
- (ii) That the applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer or tamper with the evidence.

(iii) That after his release, the applicant shall not involve in any criminal activity.

(iv) The identity, status and residential proof of sureties will be verified by court concerned before the release of the applicant on bail.

In case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail of the applicant.

Order Date :- 6.1.2025 NSC