

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 19231 of 2022

Applicant :- Manish Singh Yadav @ Chhotu

Opposite Party :- State of U.P.

Counsel for Applicant :- Kunwar Bhaskar Parihar

Counsel for Opposite Party :- G.A., Brajesh Kumar Solanki

Hon'ble Siddharth, J.

Heard learned counsel for the applicant; Sri Brajesh Kumar Solanki, learned counsel for the informant; learned AGA for the State and perused the material placed on record.

The instant bail application has been filed on behalf of the applicant, **Manish Singh Yadav @ Chhotu**, with a prayer to release him on bail in **Case Crime No.864 of 2021, under Sections 376(2)(N) & 506 IPC, Police Station Civil Lines, District- Prayagraj**, during pendency of trial.

There is allegation of repeated rape of the victim and extending threats to her against the applicant in the FIR. There is allegation against the applicant that he committed the alleged offence against the informant/prosecutrix and thereafter promised to marry her. Thereafter, he promised that after getting job, he will marry her, but did not marry her. He refused to marry her and made obscene video.

Learned counsel for the applicant has submitted that the allegations in the FIR are absolutely incorrect. No video was found by the Investigation Officer and applicant has not implicated for any offence under the Information Technology Act. The victim is major girl and has falsely implicated the applicant only to pressurize him to marry her. The applicant has no criminal history to his credit and is languishing in jail since 24.3.2022. In case, the applicant is released on bail, he will not misuse the liberty of bail.

Learned A.G.A. and learned counsel for the informant have vehemently opposed the prayer for bail of the applicant. Learned counsel for the informant has brought on record the whatsapp chat between the victim and applicant and also the transfer of some money in the account of the applicant, which is stated to be extortion money for not blackmailing the victim. However, the alleged offences have not been proved by the Investigating Officer. Whatsapp chats are also not part of the case diary.

Having considered the submissions of the parties noted above, larger mandate of the Article 21 of the Constitution of India, considering the dictum of Apex Court in the case of **Satendra Kumar Antil Vs. C.B.I. & Another, passed in S.L.P.(Crl.) No. 5191 of 2021, judgement dated 11.7.2022 and considering 5-6 times overcrowding in jails over and above their capacity by under trials** and without expressing any opinion on the merits of the case, let the applicant involved in the aforesaid 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 that :-

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(ii) The applicant shall file an undertaking to the effect that he 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 as directed by the Court. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A of the Indian Penal Code.

(iv) 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. is issued and the applicants fail 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 of the Indian Penal Code.

(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 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.

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

Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

The court below is directed to conclude the trial against the applicant, as expeditiously as possible, preferably within a period of one year from the date of production of certified copy of this order.

Order Date :- 27.9.2022
Ruchi Agrahari