

Court No. - 13**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 14065 of 2023**Applicant :-** Pintu Singh Alias Sudhir Singh**Opposite Party :-** State Of U.P. Thru. Prin. Secy. Home U.P. Lko.**Counsel for Applicant :-** Kunwar Ravi Prakash, Vijay Pratap Singh**Counsel for Opposite Party :-** G.A.**Hon'ble Shamim Ahmed, J.**

Heard Sri Vijay Pratap Singh, learned counsel for the applicant as well as Miss Chaaru Singh, learned A.G.A. for the State and perused the record.

The applicant Pintu Singh Alias Sudhir Singh has filed this application seeking bail in Case Crime No. 572/23; Under Section: 354/504/506/436/427/376/511/452 I.P.C.; Police Station Ram Nagar, District: Barabanki, during pendency of the trial.

Learned counsel for the applicant submits that the applicant is innocent and he has been falsely implicated in the present case due to enmity and village party-bandi. He further submits that whatever the allegations have been levelled against the applicant in the first information report, are only the outcome of the pressure created by the villagers and family members of the victim. In fact, the alleged victim and the applicant were in love-affair and on the date of the incident the alleged victim had gone with the applicant to his house, however, when this came in the knowledge of her parents, the present F.I.R. was lodged under Sections 354, 504, 506, 436, 427, I.P.C. and Sections 7/8, Protection Of Children from Sexual Offences Act (POCSO Act) on 08.10.2023, in respect of the alleged incident dated 05.10.2023, and even no proper explanation regarding the delay was given in the first information report. In the statements recorded under Sections 161 and 164, Cr.P.C. the alleged victim almost repeated the same version of the F.I.R., but in the entire statements she no where levelled any direct allegation of committing rape by the applicant, even then the investigating officer, without considering this fact, later on added Sections 376 and 511, I.P.C. and dropped Section 7/8, POCSO Act, as the victim herself admitted her age to be 21 years, i.e., she was major at the time of the alleged incident.

The learned counsel for the applicant further submits that when the victim was taken for medical-examination, she refused for her internal and external medical examination. Report of the

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doctor finds place at page-7 of the supplementary-affidavit dated 24.05.2024, which is already on record. The counsel further submits that once the victim denies for her medical examination, either internal or external, the allegation as levelled by the prosecutrix and the chargesheet submitted under Section 376, I.P.C., is nothing, but an abuse of the process of law, only to give gravity to the offence.

Learned counsel for the applicant also submits that the parties were consenting, but due to fear of the family members and the villagers, the victim has taken the name of the applicant and the allegation was levelled, however, she has not made any direct allegation that the applicant has committed rape once or several times, thus, the entire prosecution case is false and fabricated.

Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed forth before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been touched upon at length. It has been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. It has also been pointed out that the accused is not having any criminal history. He has been implicated in the present case only with the intention to defame his image as well as the image of his family in the society, and he is in jail since 14.10.2023 and that in the wake of heavy pendency of cases in the Court, there is no likelihood of any early conclusion of trial.

Miss Charu Singh, learned A.G.A. has opposed the arguments as advanced by the learned counsel for the applicant and she submit that it is not the dispute that the allegation of rape was not directly levelled by the victim in her statement recorded under Section 161 and 164, Cr.P.C., but *prima facie* offence the applicant is made out, thus, the application for bail be rejected.

After perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence, the period of detention already undergone, the unlikelihood of early conclusion of trial and also in the absence of any convincing material to indicate the possibility of tampering with the evidence and considering the fact that there is no direct allegation of rape in the statement of the victim recorded under Sections 161 and 164 Cr.P.C. and the victim refused for her medical-examination and further considering the larger mandate of the Article 21 of the Constitution of India and the law laid

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down by the Hon'ble Apex Court in the case of *Dataram Singh vs. State of UP and another*, reported in (2018) 3 SCC 22, this Court is of the view that the applicant may be enlarged on bail.

The prayer for bail is granted. The application is allowed.

Let the applicant- Pintu Singh alias Sudhir Singh S/o Sri Ghanshyam involved in Case Crime No. 572/23; Under Section: 354/504/506/436/427/376/511/452 I.P.C.; Police Station Ram Nagar, District: Barabanki, be released on bail on his executing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned on the following conditions :-

(1) The applicant will not make any attempt to tamper with the prosecution evidence in any manner whatsoever.

(2) The applicant will personally appear on each and every date fixed in the trial court and his personal presence shall not be exempted unless the court itself deems it fit to do so in the interest of justice.

(3) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(4) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

(5) In case, the applicant misuses the liberty of bail during trial, in order to secure his presence, proclamation under section 82 Cr.P.C. is issued and the 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 of the Indian Penal Code.

(6) The applicant shall remain present, 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.

(7) The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad or certified copy issued from the Registry of the High Court, Allahabad.

(8) The concerned Court/Authority/Official shall verify the

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authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

It may be observed that in the event of any breach of the aforesaid conditions, the trial court shall be at liberty to proceed for the cancellation of applicant's bail.

It is clarified that the observations, if any, made in this order are strictly confined to the disposal of the bail application and must not be construed to have any reflection on the ultimate merits of the case.

(Shamim Ahmed, J.)

Order Date :- 13.6.2024

A.Nigam