

Court No. - 29

Case :- BAIL No. - 2426 of 2021

Applicant :- Chandbibi

Opposite Party :- State of U.P.

Counsel for Applicant :- Abrar Ahmad

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

Heard learned counsel for the accused/applicant as well as learned A.G.A. for the State and perused the record.

This bail application has been moved by the accused/applicant-**Chandbibi** for grant of bail, in Case Crime No. 359 of 2020, under Sections 364, 366, 368,120-B IPC and Section 3/5 Uttar Pradesh Prohibition of Unlawful Religious Conversion Ordinance, 2020, Police Station Tambaur, District Sitapur, during trial.

Learned counsel for the accused-applicant while pressing the bail application submits that the accused-applicant has falsely been implicated in the instant case and she has not committed any offence as claimed by the prosecution.

It is further submitted that the applicant was not named in the FIR and the victim was also not recovered from the custody of the applicant and it is shown that soon after the abduction the victim had appeared before the Police Station concerned along with her father and thereafter her statement under Section 161 Cr.P.C. was recorded by the Investigating Officer, wherein also no allegation of any kind has been levelled against the applicant.

It is further submitted that the statement of the prosecutrix was also recorded under Section 164 Cr.P.C., wherein also no allegation of any kind either with regard to the kidnapping/abduction of the prosecutrix or of any abetment has been levelled against the applicant and it has been categorically stated that she had gone with co-accused Jibraeel on her own volition and free will and she is in love with him and also that she had changed religion on her own volition.

It is further submitted that even if the case of prosecution is taken on its face value no involvement of the applicant is evident in any illegal activity and it has been categorically stated by the prosecutrix in her statement recorded under Sections 161 and 164 of Cr.P.C. that the applicant had not done any illegal act. However, it was on 26.2.2021 when the additional statement of the prosecutrix is shown to have been

recorded by the Investigating Officer wherein for the very first time the allegation pertaining to the forceful conversion of religion pertaining to the prosecutrix has been levelled and the same could not be believed in the back ground of the fact that in the statement of the prosecutrix recorded under Section 164 Cr.P.C. she has not levelled any imputation against the applicant and therefore the additional statement of the prosecutrix recorded by the Investigating officer could not be believed.

It is further submitted that the age of the prosecutrix is more than 19 years at the time of occurrence and having regard to her statement recorded under Section 164 Cr.P.C. no offence has been committed by the applicant.

It is further submitted that the applicant is a lady and is in jail in this matter since 12.12.2020. Charge sheet has already been submitted and there is no apprehension that the accused-applicant after release on bail, may flee from the process of law or will misuse the liberty and also that she is not having any criminal antecedents.

Learned A.G.A., however, opposes the prayer for bail of the applicant on the ground that in the additional statement of the prosecutrix it has been specifically stated that amongst other persons who were instrumental in pressurizing the victim for changing her religion the instant applicant was one of them and therefore she could not escape criminal liability.

It is also submitted by learned AGA that the offence is heinous and having regard to the additional statement of the prosecutrix recorded under Section 161 of the Cr.P.C. she had been converted to other religion without her consent. However, he could not dispute the facts pertaining to the fact that the prosecutrix was major at the time of occurrence and also that no complicity of the applicant is evident in the earlier statements of the prosecutrix recorded under Sections 161 and 164 of Cr.P.C.

Having heard learned counsel for the parties and having perused the record, it is evident that the applicant was not named in the FIR. The prosecutrix/ victim has also not been recovered from the custody of the applicant and it appears that the prosecutrix on her own had appeared before the police station Tambaur along with her father and her statement under Section 161 of Cr.P.C. was recorded wherein no imputation of any kind was alleged against the applicant. Thereafter statement of the prosecutrix was recorded under Section 164 Cr.P.C., wherein also no imputation of any kind was alleged against her. However, it was in the additional statement of the prosecutrix recorded under Section 161 Cr.P.C., the allegation

of being instrumental in forceful conversion of the victim was levelled/ attributed to the applicant. It has been overwhelmingly submitted by learned counsel for the applicant that subsequent/ additional statement of the prosecutrix before the Investigating Officer could not be believed in the light of her earlier statement recorded before the Magistrate under Section 164 of the Cr.P.C. wherein no imputation/ allegation of any kind was levelled against the applicant. The applicant is a lady, she is in jail in this matter since 12.12.2020. Charge sheet in the matter has already been filed. The presence of the applicant before trial court could be secured by placing adequate conditions/ restrictions.

Having regard to the overall facts and circumstances of the case and keeping in view the submissions made by learned counsel for the applicant I find substance only for the purpose of releasing the applicant on bail. The bail application is, thus, **allowed.**

Let the applicant- **Chandbibi** involved in the aforesaid case be released on bail on furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant would not leave the local limits of the police station, wherein she is permanently residing, without prior permission of the police station concerned.

(ii) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.

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

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

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.

Order Date :- 24.3.2021

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