

Court No. - 73

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 54154 of 2021

Applicant :- Farhan Ahmad (Shanu)

Opposite Party :- State Of U.P Thru Secretary Home Lknw.

Counsel for Applicant :- Amit Kumar Singh, Satyendra Narayan Singh

Counsel for Opposite Party :- G.A.

Hon'ble Om Prakash Tripathi, J.

Heard learned counsel for the applicant, learned A.G.A. for State and perused the material available on record.

Accused-applicant, involved in Case Crime No. 411 of 2021, under Sections 376, 504, 506 IPC and 3/5 (1) U.P. Prohibition of Unlawful Conversion of Religion Act, 2020, Police Station Ramgarhtal, District Gorakhpur, applied for bail.

The brief facts of the case is that the informant is resident of Mohalla Chilmapur Nai Colony, Gorakhpur and in the month of January, 2021 through facebook she has come in the touch of present applicant Farhan Ahmad (Shanu) who demanded the number of the informant and thereafter the conversation between both was started. It is further alleged that the applicant stated himself he is working at the post of Tax Inspector in Nagar Nigam Gorakhpur and during conversation he has made proposal of marriage and after giving assurance he has developed physical relation, however she has conceived pregnancy, but after making pressure abortion was conducted and thereafter when the informant has stated to get marry then he was tolerating the matter and stated that until and unless she will not accept Islam Religion he will not marry to her and he started pressure to change her Religion. It is further alleged that on 01.10.2021 in the evening he came with one girl and in front of Heal Park after calling her he started abusing and use derogatory word and threatened to accept Muslim Religion otherwise neither he will marry to her nor he will accept to her and she will be murdered, because he is very influential person and thereafter after taking her mobile he has deleted entire whatsapp chat therefore the informant is afraid due to his behavior, because the parents of the informant died causally, It is further alleged that there is possibility that the present applicant will commit murder of her, therefore, the present first information report is being lodged.

Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in the present case only for the purpose of blackmailing whereas on the basis of allegations the present case is the case of consenting party and nothing else. He has committed no offence. Learned counsel for the applicant further submitted that the alleged incident is said to have taken place at unknown date and time i.e., month of January, 2021, whereas the First Information Report with regard to the same incident has been lodged after 10 months of the alleged incident i.e. 23.10.2021 without any plausible explanation for delay in lodging of the FIR.

The main contention of the learned counsel for the applicant is that it is matter of conscious relationship. Both the parties are major and there is not evidence of abortion, therefore, the charge sheet against the applicant is filed only under Section 376, 504, 506 IPC and Section 3/5 (1) U.P. Prohibition of Unlawful Conversion of Religion Act, 2020. In the medical report, no external or internal injury was found on the body of the victim and the doctor has opined suspicion regarding the rape. In the High School Certificate, the date of birth of the prosecutrix is 12.03.1996 by which, the prosecutrix is 25 years and she is major. In the statement recorded under Section 164 Cr.P.C., she admitted the love affair and relationship with the present applicant. Learned counsel for the applicant further submitted that there is contradictions in the statements of the victim recorded under Sections 161 and 164 Cr.P.C. and further stated that the applicant Shanu began to make physical relationship with her forcibly. It is also submitted that the applicant has never pressurized at any point of time to the prosecutrix for conversion of her Religion and the entire prosecution story is false and fake, therefore, the applicant be released on bail. The applicant is languishing in jail since 27.10.2021.

In support of his contention, learned counsel for the applicant has relied upon a decision of Apex Court in ***Sonu @ Subhash Kumar vs. State of Uttar Pradesh & another, 2021 0 Supreme (SC) 182.***

On the other hand, learned A.G.A. has vehemently opposed the prayer for bail by submitting that it is a heinous crime against a society and has a long effect on the mind of victims. The victim has to go through a serious emotional trauma and physical suffering. Sexual intercourse with the victim on the pretext of false promise to marry is, and ought to be an offence of rape under the penal provisions effect on the mind of the victim.

There is serious allegation of rape against the applicant with the victim, in these circumstances, the applicant is not entitled to be released on bail.

In support of his contention, learned A.G.A. has relied upon a decision of this Court dated 03.08.2021 passed in Criminal Appeal No. 1382 of 2021 - ***Harshvardhan Yadav vs. State of U.P. and another.***

Considering the facts and circumstances of the case, rival contention of learned counsel for the parties and perusal of record and considering the complicity of accused and serious allegation of rape against the applicant, at this stage, without commenting on the merits of the case, I do not find it a fit case for bail. The bail application of the applicant Farhan Ahmad (Shanu) is rejected accordingly.

Accordingly, the bail application is **rejected**.

However, trial Court is directed to conclude the trial of the case expeditiously and preferably within a period of one year.

Order Date :- 5.1.2022

Monika