

**Court No. - 14**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 6088  
of 2021

**Applicant :-** Nayeem Ansari

**Opposite Party :-** State of U.P. and Another

**Counsel for Applicant :-** Surendra Yadav

**Counsel for Opposite Party :-** G.A.

**Hon'ble Ram Krishna Gautam,J.**

Heard over bail application, moved by the accused-applicant-Nayeem Ansari, in Case Crime No. 109 of 2021, under Sections-363, 376, 506 I.P.C. and 3/4 of Protection of Children From Sexual Offences Act, Police Station-Poora Kalandar, District-Ayodhya/Faizabad.

Learned counsel for accused-applicant argued that the accused-applicant is innocent; he has been falsely implicated in this very case crime number; he is languishing in jail since 28.03.2021; prosecutrix had said nothing incriminating against the applicant, in her statement under Sections 161 as well as 164 Cr.P.C.; she is a major lady voluntarily solemnized marriage with the applicant and there is no accusation of rape; there is no likelihood of applicant's fleeing from course of justice or tempering with evidence in case of release on bail; hence bail has been prayed for.

Shri Ashok Kumar Singh, learned A.G.A. has vehemently opposed the bail application with this contention that instant report for offences punishable under Section 363, 376, 506 I.P.C. read with Section 3/4 of Protection of Children From Sexual Offences Act, was got registered, at Police Station-Poora Kalandar, by the father of the prosecutrix, on 26.03.2021, wherein, applicant is named and has said to have sexually assaulted the prosecutrix, aged about 15 years, and it was after enticing her; marriage by way of putting vermilion (Sindoor), over her head in a temple was performed; whereas, threat of dire consequences was extended, by the applicant, in case of opening of lips, by the informant or her family members; prosecutrix, in her statement under Sections 161 as well as 164

Cr.P.C. has categorically said herself to be 16 years of age; on the basis of her educational record, wherein, her date of birth is 23.07.2006, i.e. she is less than 16 years on the date of alleged registration of Case Crime Number; marriage was said to be performed, by the applicant himself, in his bail application and affidavit filed in support of the bail application; though, there is contention that conversion was not there and under above circumstances, marriage may only be performed under Special Marriage Act, before the marriage authority; which was not there; rather it is being admitted to be a marriage performed in a temple and inter religion faith is admitted in bail application itself, then how inter religion marriage may be performed in a temple by Hindu ritual, without there being any conversion; prosecutrix is minor; she has been enticed and she has been sexually assaulted by way of penetrative sexual assault, by the applicant and for this marriage is being said to be there, whereas, without observing the provisions of The Special Marriage Act, 1954, this marriage is said to be there; it was a fraud; marriage was not performed under any Special Marriage Act; there is every likelihood of applicant's fleeing from course of justice and tampering with evidence in case applicant is released on bail.

Having heard learned counsel for both sides and gone through materials placed on record and admission made in bail application, itself, it is apparent that prosecutrix is less than 16 years and penetrative sexual assault is there.

Considering all those facts and circumstances of the case, heinousness of offence of rape, that too, with a minor girl, then after playing fraud marriage was performed in a temple, aim preamble and object of special legislation of Protection of Children from Sexual Offence Act, 2012 to protect children from sexual offence, likelihood of tampering with evidence in case of release on bail as well as likelihood of fleeing from course of justice, there appears to be no ground for bail.

Accordingly, this Bail Application stands rejected.

**Order Date :- 7.4.2022**

Deepak