

**Court No. - 73**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 17283 of 2024

**Applicant :-** Mohammad Kaif

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

**Counsel for Applicant :-** Sheshmani Vishwakarma

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

**Hon'ble Sameer Jain,J.**

1. Heard Shri Abhishek Singh, Advocate holding brief of Sri Sheshmani Vishwakarma, learned counsel for the applicant and Dr. S.B. Maurya, learned A.G.A. for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.19 of 2024, under Sections 366 I.P.C., Section 3/5 of U.P. Prohibition of Unlawful Conversion of Religion Act, 2021, Police Station Oonj, District Bhadohi during pendency of the trial in the court below.
3. FIR of the present case was lodged against the applicant and according to the FIR, applicant enticed away the daughter of the informant aged about 18 years.
4. Learned counsel for the applicant submits that on the basis of false allegation, applicant has been made accused in the present case and since beginning daughter of the informant was aware that the applicant belongs to Muslim community and she herself had gone along with him but after recovery she on the instigation of her mother i.e. informant twisted the story and stated that applicant did not inform her that he belongs to Muslim community and he introduced himself as a boy of Hindu community.
5. He further submits that this fact is even evident from the FIR, which was lodged before recovery of the girl and it was lodged against the applicant disclosing his real name.
6. He further submits that even from the statement of the victim recorded during investigation, it could not be reflected that the applicant ever pressurized her to convert her religion and even as per victim he only stated that if she wants to perform marriage with him then she had to change her religion.

7. He further submits that the applicant is not having any criminal history and he is in jail in the present matter since 10.03.2024.

8. Per contra, learned AGA opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

9. I have heard learned counsel for both the parties and perused the record of the case.

10. However, from the statements of the victim recorded under Sections 161 and 164 Cr.P.C., it appears that applicant, who belongs to Muslim community, did not disclose his real identity to her and when the victim had gone along with him then he disclosed his identity and stated her that if she wants to perform marriage with him then she has to change her religion but FIR of the present case was lodged against the applicant with his real name and, therefore, considering this fact, the argument advanced by learned counsel for the applicant that victim was well aware that applicant belongs to Muslim community cannot completely be ruled out at this stage.

11. Further, from the statements of the victim, it reflects that she herself had gone along with applicant and she is major girl aged about 18 years. Further, there is no allegation that the applicant forcibly tried to change her religion and only allegation against him is that he told the victim if she wants to perform marriage with him then she will have to change her religion.

12. Further, applicant is not having any criminal history and he is in jail in the present matter since 10.03.2024.

13. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

14. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is allowed.

15. Let the applicant- **Mohammad Kaif**, be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

16. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

17. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

**Order Date :- 6.5.2024**

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