

Court No. - 85

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Case :- CRIMINAL APPEAL No. - 2180 of 2021

Appellant :- Fehzan Malik @ Sonu

Respondent :- State of U.P. and Another

Counsel for Appellant :- Syed Faiz Hasnain, Syed Riyaz Askari

Counsel for Respondent :- G.A., Manish Kumar

Hon'ble Vipin Chandra Dixit, J.

Heard Mr. Syed Faiz Hasnain, learned counsel for the appellant and Sri Manish Kumar, learned counsel for opposite party No.1 through video conferencing and learned AGA. Perused the impugned judgment.

The present criminal appeal has been filed u/s 14(A)(2) of S.C./S.T. Act against the impugned order of rejection of bail dated 14.4.2021 passed by learned Special Judge, (S.C./S.T.) Act, Gautam Buddh Nagar in Bail Application No. 1942 of 2021 (Fehzan Malik @ Sonu vs. State of U.P.) arising out of Case Crime No. 68 of 2021 under section 376, 506 IPC and section 3(2)5 SC/ST Act and section 3(5)1 U.P. Rules for Conversion of Religion & Prevention, Ordinance, 2020, Police Station Kasma, District Gautam Buddh Nagar.

Learned counsel for the appellant submitted that the appellant has falsely implicated in this case. The victim is major aged 20 years. From bare perusal of FIR, it is apparent that physical relations were developed with the consent of victim. The statement of victim was recorded under section 161 Cr.P.C. in which she has stated that physical relations were developed between appellant and the victim on false assurance of marriage by the appellant. There is no possibility of him fleeing away from judicial process or tampering with the prosecution evidence. Learned counsel for the appellant lastly submitted that the appellant is in jail since 20.3.2021 and if released, he will not misuse the liberty of bail.

Per contra, learned A.G.A. supported the impugned order.

Upon hearing learned counsel for the parties, perusal of record and considering the complicity of accused, severity of punishment as well as totality of facts and circumstances, I find that the court below has erred in rejecting the bail application and the impugned order dated 14.4.2021 is liable to be set-aside and appeal is liable to be allowed.

The impugned order dated 14.4.2021 passed by Special Judge, (S.C./S.T.) Act, Gautam Buddh Nagar is set-aside and this

Let appellant-**Fehzan Malik @ Sonu** be released on bail in Case Crime No. 68 of 2021 under section 376, 506 IPC and section 3(2)5 SC/ST Act and section 3/(5)1 U.P. Rules for Conversion of Religion & Prevention, Ordinance, 2020, Police Station Kasna, District Gautam Buddh Nagar on furnishing a personal bond and two sureties each in the like amount to the satisfaction of court concerned, subject to following conditions:-

(i) The appellant will co-operate with the trial and remain present personally on each and every date fixed for framing of charge, recording of evidence as well as recording of statement under Section 313 Cr.P.C. or through counsel on other dates and in case of absence without sufficient cause, it will be deemed that he is abusing the liberty of bail enabling the court concerned to take necessary action in accordance with the provisions of Section 82 Cr.P.C. or Sections 174A and 229A I.P.C.

(ii) The appellant will not tamper with the prosecution evidence and will not delay the disposal of trial in any manner whatsoever.

(iii) The appellant will not indulge in any unlawful activities.

(iv) The party shall file computer generated copy of such order downloaded from the official website of High Court, Allahabad.

(v) The concerned Court shall verify the authenticity of such computerized copy of the order from the official website of High Court, Allahabad.

The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the appellant to prison.

Order Date :- 25.6.2021

P.P.