

Court No. - 87

Case :- CRIMINAL APPEAL No. - 1295 of 2020

Appellant :- Babloo

Respondent :- State of U.P.

Counsel for Appellant :- Rahul Mishra, Adesh Kumar, Barkha Chaudhary, Brajesh Nath Rai, Sushil Kumar Dwivedi

Counsel for Respondent :- G.A.

Hon'ble Dinesh Kumar Singh, J.

On Bail Application

1. Present application under Section 389 (1) CrPC has been filed seeking bail pending appeal which has been instituted against the judgment and order dated 21.1.2020 passed by the Additional Sessions Judge, Court No. 1, Mahoba in Special Case No.01 of 2018, arising out of crime no.15 of 2018, under Sections 376(2)(i) IPC and Section 4 of POCSO Act, 2012, P.S. Khanna, District Mahoba.

2. Learned trial Court has convicted and sentenced the accused appellant for offence under Section 376(2)(i) IPC 20 years rigorous imprisonment with fine of Rs.20,000/- and for the offence under Section 4 of POCSO Act, 10 years rigorous imprisonment with fine of Rs. 10,000/- with direction that both the sentences would run concurrently except for fine.

3. Heard learned counsel for the appellant and learned AGA for the State.

4. The allegation against the accused appellant is raping prosecutrix, 11 years old girl, the accused appellant is married man. The prosecutrix' statement under Sections 161 and 164 Cr.P.C., medical examination and the evidence of younger brother of the prosecutrix have remained intact throughout.

5. Learned AGA for the State has opposed the bail application and submitted that such an accused who has been convicted for a heinous offence is not entitled to be enlarged on bail.

6. Considering the heinousness of offence and evidence on record, I do not find it a fit case to enlarge the accused appellant on bail at this stage, and therefore, the bail application is **rejected**.

Memo

Let the appeal be listed along with the trial court record for hearing in the month of July, 2023.

[Dinesh Kumar Singh, J.]

Order Date :- 13.1.2023/Arif