

**Court No. - 75**

**Case :-** CRIMINAL APPEAL No. - 2292 of 2021

**Appellant :-** Shahab

**Respondent :-** State of U.P.

**Counsel for Appellant :-** Sanjay Singh

**Counsel for Respondent :-** G.A., Girish Tiwari

**Hon'ble Subhash Chandra Sharma, J.**

*In Re: Criminal Misc. Bail Application No. 01 of 2021.*

Heard learned counsel for appellant, learned counsel for complainant as well as learned A.G.A. for the State and perused the record.

In this case, appellant Shahab has been convicted and sentenced under Section 363 IPC for a period of three years rigorous imprisonment with fine of Rs. 5000/-; under Section 366 IPC for a period of five years rigorous imprisonment with fine of Rs. 5000/-; under Section 328 IPC for a period of one year's simple imprisonment with fine of Rs. 1000/- and under Section 17 POCSO Act for a period of three years rigorous imprisonment with fine of Rs. 5000/-.

It is submitted that the appellant is innocent and has been falsely implicated in the present case. In this case, no allegation of rape has been made against the appellant. Victim was in relation with the co-accused Faijan. Appellant has been implicated only on account of being brother of co-accused for making enticement of the victim. There is no cogent and convincing evidence on record even though learned trial court has convicted and sentenced him only on the basis of conjectures and surmises. Appellant has been languishing in jail since 04.03.2021. He was on bail during trial. There is no likelihood of hearing of appeal in near future but it will take some time for final disposal, therefore, the appellant is entitled for bail.

On the other hand, learned A.G.A. opposed the bail application and supported the trial court's judgement.

Considering the facts and circumstances of the case in particular the nature of evidence adduced by the parties; without further commenting on merit of the case, I am inclined to release the appellant on bail.

Let appellant **Shahab** convicted and sentenced in Special Case

No. 42 of 2020 (State Vs. Shahab) arising out of Case Crime No. 148 of 2020, under Sections 363, 366, 328 IPC & Section 17 POCSO Act, P.S. Shahzad Nagar, District Rampur, be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned.

The realization of half of the fine awarded to the appellant shall also remain stayed during the pendency of the appeal.

On acceptance of bail and personal bonds, the lower court shall transmit photostat copies thereof to this Court for being kept on the record.

The appellant would be entitled to get the benefit of this order only after depositing 50 % amount of fine.

The party shall file computer generated copy of this order downloaded from the official website of High Court Allahabad, self attested by representative/counsel of the appellant (s) along with a self attested identity proof of the said person (s) (preferably Aadhar Card) mentioning the mobile number (s) to which the said Aadhar Card is linked.

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

List the appeal in due course.

**Order Date :- 30.9.2021**

A. Singh