

further submitted that there are huge contradictions between the averments made in the F.I.R., in the statement of the victim recorded under Section 161 Cr.P.C. and in her statement recorded under Section 164 Cr.P.C.

5. Learned counsel for the applicant further submits that the real brother of the applicant, Mohammad Hashim committed suicide on 11.12.2017, in this regard the applicant lodged a first information report bearing F.I.R. No. 162 of 2017, under Section 306 I.P.C. at Police Station Hanswar, District Ambedkar Nagar, against the complainant and her other family members. In the said case after due investigation the complainant and her other family members have been charge sheeted and the trial is going on.

6. Learned counsel further submits that the entire allegation against the applicant and his family members has been levelled by the complainant with intention to built pressure upon the applicant not to pursue the criminal case lodged against her and her family members, and also to get some share in the property of the applicant's father. This fact has also been chalked out from the statement given by the complainant in the statement recorded under Section 161 Cr.P.C., whereas, the facts remain the same that the complainant is living since long in her parental house and only to get the share she has roped in the entire family of the applicant in the criminal case.

7. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed forth before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been touched upon at length. It has been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. The applicant undertakes that in case he is released on bail he will not misuse the liberty of bail and will cooperate in trial. It has also been pointed out that the applicant is not having any criminal history and he is in jail since 05.12.2021 and that in the wake of heavy pendency of cases in the courts, there is no likelihood of any early conclusion of trial.

8. Learned A.G.A. opposed the prayer for bail.

9. After perusing the record in the light of the submissions made at the Bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence, the period of detention already undergone, the unlikelihood of early conclusion of trial and also the absence of any convincing material to indicate the possibility of tampering with the evidence and considering the medical report and contradictions in the F.I.R. and in the statements recorded under Section 161 and 164 Cr.P.C. of the victim as also no sign of rape has been opined by the doctor nor any external or internal injury was found on the person of the victim, and as per the medical examination the victim was a major woman and was having two children, and considering the larger mandate of the Article 21 of the Constitution of India and the law laid down by the Hon'ble Apex Court in the case of *Dataram Singh vs. State of U.P. and another*, reported in (2018) 3 SCC 22, this Court is of the view that the applicant may be enlarged on bail.

10. The prayer for bail is granted. The application is allowed.

11. Let the applicant, **Khalid**, involved in F.I.R. No. 157 of 2021, under Sections 354, 506, 376 I.P.C., Police Station Hanswar, District Ambedkar Nagar, be enlarged on bail on his executing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned on the following conditions :-

(1) The applicant will not make any attempt to tamper with the prosecution evidence in any manner whatsoever.

(2) The applicant will personally appear on each and every date fixed in the court below and his personal presence shall not be exempted unless the court itself deems it fit to do so in the interest of justice.

(3) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(4) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

(5) In case, the applicant misuses the liberty of bail and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(6) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of his bail and proceed against him in accordance with law.

(7) The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad or certified copy issued from the Registry of the High Court, Allahabad.

(8) 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.

12. It may be observed that in the event of any breach of the aforesaid conditions, the court below shall be at liberty to proceed for the cancellation of applicant's bail.

13. It is clarified that the observations, if any, made in this order are strictly confined to the disposal of the bail application and must not be construed to have any reflection on the ultimate merit of the case.
