

पुलिस महानिदेशक  
उत्तर प्रदेश

पुलिस मुख्यालय, गोमतीनगर विस्तार,  
लखनऊ।

दिनांक: जून 5, 2023

विजय कुमार,  
आई0पी0एस10



विषय:-किमिनल गिस बेल एप्लीकेशन सं0:30489/2022 नीरज बनाम  
उ0प्र0 राज्य व 03 अन्य के सम्बन्ध में।

प्रिय महोदय/महोदया,

कृपया विषयांकित प्रकरण में अवगत कराना है कि रजिस्ट्रार मा0 उच्च न्यायालय इलाहाबाद के पत्र सं0:आरसी/1763(कि0) दिनांक 25.04.2023(छायाप्रति संलग्न) का अवलोकन करने का कष्ट करें, जो थाना सरधना जनपद मेरठ पर पंजीकृत मु0अ0सं0-369/2016 धारा 328/376/506 भादवि व 3/4 पॉक्सो एक्ट में प्रस्तुत बेल एप्लीकेशन के सम्बन्ध में मा0 उच्च न्यायालय इलाहाबाद द्वारा दिये गये निर्देश के अनुपालन विषयक है।

संदर्भित प्रकरण में मा0 उच्च न्यायालय इलाहाबाद में उपस्थित वरिष्ठ पुलिस अधीक्षक, जनपद मेरठ से विचार विमर्श के उपरान्त आपराधिक अभियोग के सूचनाकर्ता तथा पीड़ित जो किराये के मकान में रह रहे हों, का पहचान पत्र, मोबाइल नम्बर, आधार नम्बर तथा इस आशय का वचन पत्र (Under taking) कि यदि सूचनाकर्ता/पीड़ित अपना मकान परिवर्तित करे, तो इस बात की सूचना पुलिस को देंगे, प्राप्त करने हेतु निर्देशित किया है। इस सम्बन्ध में मा0 उच्च न्यायालय द्वारा पारित आदेश दिनांक 28.03.2023 का सुसंगत अंश निम्नवत् है-

"Shri Rohit Singh Sajwan, Senior Superintendent of Police, Meerut also submits that he has discussed the matter with the senior officers of the department in Bail application No. 30489 of 2022 Neeraj Vs. State of U. P. respect of issuance of general guidelines regarding taking ID, mobile number, Adhar number, undertaking of the informant and the victim, who are living in a rented house that in case they shift to another house, they shall inform the police station concerned etc. at the time of lodging of FIR and to take other suitable steps in order to ensure the presence of the informant/victim before the trial court at the time of their examination"

मा0 उच्च न्यायालय इलाहाबाद द्वारा उपरोक्त वर्णित निर्देशों का अनुपालन आप सभी के स्तर से किया जाना नितान्त आवश्यक है, अतः आप सभी को निर्देशित किया जाता है कि विवेचना के दौरान ऐसे सूचनाकर्ता/पीड़ित जो किराये के मकान में आवासित हैं, उनके वर्तमान पते के साथ-साथ उनके पहचान पत्र, मोबाइल नं0, आधार नं0 तथा इस आशय का "वचन पत्र" कि अपना आवास परिवर्तित करने की दशा में

परिवर्तित आवास का पता पुलिस को उपलब्ध करायेंगे, प्राप्त कर विवेचना में केस डायरी के साथ संलग्न किया जाये तथा मा० विचारण न्यायालय में विचारण के दौरान सूचनाकर्ता तथा पीड़ित की उपस्थिति सुनिश्चित कराये जाने हेतु अन्य उपयुक्त कदम उठाया जाना सुनिश्चित करें।

उपरोक्त निर्देशों का कड़ाई से अनुपालन कराना सुनिश्चित करें।  
संलग्नक:यथोपरि।

भवदीय,

  
( विजय कुमार )

1. समस्त पुलिस आयुक्त,  
उत्तर प्रदेश।
2. समस्त वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक/  
प्रभारी जनपद/रेलवेज,  
उत्तर प्रदेश।

प्रतिलिपि—निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

1. विशेष पुलिस महानिदेशक, कानून व्यवस्था/अपराध/एस०आई०टी, उ०प्र०
2. अपर पुलिस महानिदेशक, अभियोजन/रेलवे/सी०बी०सी०आई०डी०/  
ए०टी०एस०, उ०प्र०।
3. समस्त जोनल अपर पुलिस महानिदेशक, उ०प्र०।
4. समस्त परिक्षेत्रीय पुलिस महानिरीक्षक/पुलिस उपमहानिरीक्षक, उ०प्र०।



E-mail/Speed Post

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17/5/23

From:

Registrar General  
High Court of Judicature at  
ALLAHABAD

To:

1. The Director General of Police,  
State of U.P.  
Lucknow
2. The Principal Secretary (Law) &  
Legal Remembrancer  
Government of U.P.  
Lucknow

No. : RC/1763(Crl)

Dated: April 25, 2023

Subject: CRIMINAL MISC. BAIL APPLICATION No.- 30489 of 2022 - Neeraj Vs. State of U.P. and 3 others.

Sir/Madam,

In the above mentioned case, the Hon'ble Court (Hon'ble Sanjay Kumar Singh,J.), vide order dated 28.03.2023 has been pleased to direct as follows :

“.....

The Senior Superintendent of Police, Meerut assures the Court that the aforesaid guidelines shall be issued by the higher authorities within three months. This Court has no reason to doubt the bona fide of the officer concerned.

.....

Copy of this order shall be communicated to the Senior Superintendent of Police, Meerut by the learned Government Advocate for onward transmission to the authorities concerned.

The Registrar (Compliance) of this Court is directed to send a copy of this order to the Director General of Police, U.P. Lucknow and Legal Remembrancer, U.P. Lucknow for compliance.

Although this bail application has been disposed of, but the same shall be listed before this Court on 14.7.2023 for limited purpose of compliance of the order in respect of issuance of necessary guidelines as discussed above by the authorities concerned.”

While enclosing herewith true copy of the orders dated 28.03.2023, you are requested to kindly ensure necessary compliance of the above order, strictly as per the direction of the Hon'ble Court. This case is again listed before the Hon'ble Court on 14.07.2023.

Yours faithfully

*Anoop Kumar Rai*  
25/4/2023

(Anoop Kumar Rai)  
Registrar (Compliance)  
for Registrar General

Encl: As above

Copy forwarded for information and necessary action to :

Registrar (Criminal), High Court, Allahabad.

Registrar (Compliance)  
for Registrar General

*SP legal*

*SOX*

*D.I.G.(P.G.),  
DGP, HQ  
U.P., Lucknow  
16.05.2022*

*दलित अदीशक (दि०२०)  
भारतस्य पुलिस महानिदेशक  
उ०प्र०, लखनऊ। 17/5/2023*

*For Registrar (Compliance)*

Case Crime No.369 of 2016,  
Under Section 328, 376, 506  
IPC and 3/4 POCSO Act, Police  
Station-Sardhana, District  
Meerut

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD  
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CRIMINAL MISC. 2nd BAIL APPLICATION NO. <sup>30489</sup> OF 2022  
(Under Section 439 of Code of Criminal Procedure)

(DISTRICT : MEERUT)

Neeraj son of Kishor, resident of  
Khakhrovan, Police Station Sardhana,  
District Meerut.

*29211*  
Received Notice For Bail  
On *Monday* At ..... Applicant  
Two Days Time May Be Allowed For Instruction  
(In Jail since 23.06.2016)

*1/7* VERSUS  
For Government Advocate  
Allahabad

1. State of U.P through Secretary(Home), Govt. of U.P. at Lucknow.
2. First Informant, Crime No. 369 of 2016, Police Station Sardhana, District Meerut
3. High Court Legal Services Committee, *High Court Allahabad*
4. Child Welfare Committee, District Meerut

.....Opposite Parties

To, *HW*

The Hon'ble the Chief Justice and his other  
companion Judges of the aforesaid Court.

HIGH COURT OF JUDICATURE AT ALLAHABAD

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Bail application No. 30489 of 2022  
Neeraj Vs. State of U.P.

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Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 30489 of 2022

Applicant :- Neeraj

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Ali Hasan, Deepak Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh, J.

The prosecution case commenced on the basis of first information report lodged by Khushi Ram, who is the brother of the victim (hereinafter referred to as 'the first informant') on 22.6.2016 against the applicant Neeraj to the effect that on 21.6.2016 when his family members were sleeping, the applicant entered the house and caused them to smell certain intoxicant, due to which they became unconscious. Thereafter, the applicant committed rape on her minor sister aged about 15 years (hereinafter referred as 'the victim') and also threatened her of dire consequences.

On the basis of the aforesaid report, a case was registered against the accused Neeraj at case crime No. 369 of 2016, under Sections 328, 376, 506 IPC and 34 of POCSO Act, police station Sardhana, district Meerut. After lodging of the FIR, the law set into motion and the investigating officer arrested the applicant and after completing all the formalities thereof, submitted charge sheet against him. Vide order dated 06.1.2017, the learned Additional Sessions Judge, Court No. 7/Special Judge, POCSO Act, Meerut framed the charges against

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HIGH COURT OF JUDICATURE AT ALLAHABAD

the applicant under the aforesaid sections.

Perusal of order sheet of the lower court shows that after submission of the charge sheet, neither the first informant nor the victim is appearing before the trial court and the accused has been in jail since 23.6.2016.

In the year 2017, the applicant filed first bail application (Criminal Misc. Bail Application No. 38021 of 2017), which was dismissed by the Coordinate Bench of this Court vide order dated 24.9.2019 as none appeared on behalf of the applicant to address the Court. However, after a lapse of about five years, in the year 2022, this second bail application has been filed on behalf of the applicant.

By means of this second bail application under Section 439 of Cr.P.C., applicant, who is involved in Case Crime No. 369 of 2016, under Sections 328, 376, 506 IPC and 3/4 of POCSO Act, police station Sardhana, district Meerut, seeks enlargement on bail during the pendency of trial.

Since, the matter relates to the POCSO Act, notice was issued to the first informant vide order dated 16.2.2023. The Station House officer, Police Station Sardhana, district Meerut, in whose jurisdiction, the first informant and victim reside, was also directed to ensure service of notice upon the opposite party No. 2 and to file an affidavit in this regard by the next date

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fixed in the matter, i.e. 03.03.2023. However, neither the notice was served upon opposite party No. 2 nor the SHO concerned filed any affidavit.

On 20.3.2023, when this case was taken up, Shri Virendra Kumar Maurya, learned Additional Government Advocate made a statement at the Bar that the order of this Court dated 16.2.2023 was communicated to the Station House Officer, police station Sardhana, district Meerut through the Senior Superintendent of Police, Meerut on his email ID on 22.2.2023 and the same had been received in his office, but no heed has been paid by the S.S.P. Meerut and the SHO, police station Sardhana, district Meerut to the order of this Court. However, by order dated 20.3.2023, learned Additional Government Advocate was granted a week's time to get the order dated 16.2.2023 complied with. The Senior Superintendent of Police, Meerut and Station House Officer, Sardhana, district Meerut were also directed to show cause as to why the order dated 16.2.2023 has not been complied with by them. They were also directed to produce the victim of the instant case before this Court, failing which they have to appear before this Court on 28.3.2023.

As the aforesaid officers failed to produce the victim, they appeared before this Court in person.

As far as the order of this Court dated 20.3.2023 is concerned, it speaks in two volumes. Firstly, in spite

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of the order of this Court 16.2.2023, which was communicated to the Station House Officer, police station Sardhana, district Meerut through the Senior Superintendent of Police, Meerut on his email ID on 20.3.2023 and the same having been received in his office, why no response to the said order has been given and secondly, pursuant to the order of this Court dated 20.3.2023, victim has not been produced.

Pursuant to the order of this Court dated 20.3.2023, Shri Rama Kant Pachauri, presently posted as Inspector, police station Sardhana, district Meerut has filed his personal affidavit stating therein the steps taken to search the victim. He has stated in his affidavit that the victim was living in a rented house at Mohalla Cantonment, Police Station Sardhana, district Meerut. When the police personnel went to the aforesaid address, the landlord told that she had already left the house and that he does not have any information about the victim. Thereafter, the police visited the permanent address of the informant at Narnaul, Haryana where his brother told the police that neither the first informant is living in the village nor does have any relation about him and that his father has dispossessed the first informant from his property. Thereafter, the police contacted the Sarpanch of the village, who also told the police that Khushi Ram (informant) left the village about 4-5 years back. The Sarpanch of the village has

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also given a certificate to this effect. Thereafter, the SHO sent one SI Param Lal Singh at Tariza Nagar, Dhariwal, police station Dhariwal, district Gurdaspur, where he was told that informant of this case sold out his movable and immovable properties and left the village about 19-20 years back. In view of the above circumstances, the victim could not be traced out.

Shri Rohit Singh Sajwan, presently posted as Senior Superintendent of Police, Meerut submits that the order of this Court dated 16.2.2023 was communicated to his office, but Head Constable Nishant Chawla, who is dealing with the matter, did not forward the same to the Station House Officer, Sardhana, district Meerut to ensure compliance thereof. Therefore, they could not forward any information to the learned Additional Government Advocate. He further submits that as soon as he came to know about the lapse on the part of Head Constable Nishant Chawla in complying with the orders of this Court dated 16.2.2023 and 20.3.2023, he immediately suspended him for his dereliction in duties. He tenders his unconditional apology for the inconvenience caused to this Court for non-compliance of the order dated 16.2.2023.

Shri Rohit Singh Sajwan, Senior Superintendent of Police, Meerut also submits that he has discussed the matter with the senior officers of the department in

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respect of issuance of general guidelines regarding taking ID, mobile number, Adhar number, undertaking of the informant and the victim, who are living in a rented house that in case they shift to another house, they shall inform the police station concerned etc. at the time of lodging of FIR and to take other suitable steps in order to ensure the presence of the informant/victim before the trial court at the time of their examination.

The Senior Superintendent of Police, Meerut assures the Court that the aforesaid guidelines shall be issued by the higher authorities within three months. This Court has no reason to doubt the bona fide of the officer concerned.

The personal appearance of Shri Rohit Singh Sajwan, Senior Superintendent of Police, Meerut and Shri Rama Kant Pachauri, Inspector, police station Sardhana is dispensed with.

Since the applicant has been in jail since 23.6.2016, therefore, this Court proceeds to decide the prayer of bail of the applicant on its merits.

Heard learned counsel for the applicant and learned Additional Government Advocate representing the State.

By means of this second bail application under Section 439 of Cr.P.C., applicant, who is involved in



Case Crime No. 369 of 2016, under Sections 328, 376, 506 IPC and 3/4 of POCSO Act, police station Sardhana, district Meerut, seeks enlargement on bail during the pendency of trial.

The main substratum of argument of learned counsel for the applicant is that the applicant has been in jail since 23.6.2016, but the trial has not been concluded. This Court vide order dated 10.1.2023 had called for a report from the trial court through the District Judge, Meerut. Pursuant to the said order, the learned Additional Sessions Judge/Special Judge, (POCSO Act), Meerut submitted his report dated 20.1.2023 mentioning there that in this case charge sheet was submitted on 14.9.2016 and charges were framed against the applicant on 06.1.2017, but in spite of best efforts, informant and victim of the case could not be produced for trial. Statements of formal witnesses have already been recorded. In spite of best efforts, the informant and the victim are not traceable.

It is submitted by the learned counsel for the applicant that there is no chance of the applicant fleeing away from the judicial process or tampering with the prosecution evidence. The applicant does not have any criminal history and is languishing in jail since 23.6.2016 and in case, he is released on bail, he will not misuse the liberty of bail and cooperate with the trial.

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Per contra, learned Additional Government Advocate opposed the prayer for bail of the applicant, but could not dispute the above factual aspect of the matter.

Having heard learned counsel for the parties and examined the matter in its entirety, I find that the victim and informant are not traceable and that the applicant is languishing in jail since 23.6.2016.

Considering the facts and circumstances of the case as well as keeping in view the nature of the offence, evidence, complicity of the accused and submissions of the learned counsel for the parties, this Court is of the opinion that the applicant has made out a case for bail. Hence, the bail application is hereby allowed.

Let the applicant Neeraj, be released on bail in the aforesaid case crime number 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) That the applicant shall cooperate in the expeditious disposal of the trial and shall regularly attend the court unless inevitable.

(ii) That the applicant shall not directly or indirectly make any 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 to any police officer or tamper with the evidence.

(iii) That after his release, the applicant shall not involve in any criminal activity.

(iv) The identity, status and residential proof of sureties will be verified by court concerned before the release of the applicant.

In case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail of the applicant.

Copy of this order shall be communicated to the Senior Superintendent of Police, Meerut by the learned Government Advocate for onward transmission to the authorities concerned.

The Registrar (Compliance) of this Court is directed to send a copy of this order to the Director General of Police, U.P. Lucknow and Legal Remembrancer, U.P. Lucknow for compliance.

Although this bail application has been disposed of, but the same shall be listed before this Court on 14.7.2023 for limited purpose of compliance of the order in respect of issuance of necessary guidelines as discussed above by the authorities concerned.

Order Date :- 28.3.2023  
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sd/ Sanjay Kumar Singh, J.

TRUE COPY  
For Section Officer  
Criminal Department  
High Court, Allahabad

Ans  
25/4/23

HIGH COURT OF JUDICATURE AT ALLAHABAD