

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 209 of 2020

Applicant :- Asif @ Asif Jahangir And 2 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Sanjeev Kumar Singh, Uday Prakash
Sriwastawa

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Uday Prakash Sriwastawa, learned counsel for applicants as well as Sri Anit Kumar Shukla, learned A.G.A. for State and also perused the material available on record. Learned counsel for the informant is not present.
3. The present application for anticipatory bail has been filed for protection in regard to FIR/Case Crime No. 349 of 2019, under Sections 354, 354(D), 504, 506 I.P.C. and 67 of Information Technology Act, P.S.- Rail Bazar, District- Kanpur Nagar.
4. The instant anticipatory bail application was filed by the applicant alongwith co-accused persons. Learned counsel for the applicants has stated that the applicant no.2 Jainab and applicant no.3 Mushtaq have been exonerated by police and closure report has been filed qua the applicant nos. 2 and 3, as such, the application with respect to them is rendered infructuous.
5. Accordingly, the application is **dismissed as infructuous** qua the applicant nos.2 and 3 namely, Jainab and Mushtaq.
6. As far as the applicant no. 1 Asif @ Asif Jahangir are concerned, it is being heard.
7. As per prosecution story, the applicant is stated to have stalked the informant and used to outraged her modesty every now and then and he used to call her from different mobile numbers, which have been mentioned in the FIR and used to coerce the informant to marry him, despite him being already married to co-accused person Jainab. On her refusal to marry him, the applicant is stated

to have threatened to sprinkle acid over her and cause her death. It was alleged that the wife of the applicant and Mushtaq were also involved in the said offence, although it is particularly alleged that the applicant had even stopped her rickshaw on 2.12.2019 and had outraged her modesty.

8. Learned counsel for the applicants has stated that the applicants have been falsely implicated in the present case. Learned counsel has further stated that the co-accused persons Jainab and Mushtaq have been exonerated by police, as such, the closure report has been filed with respect to them. The final report (charge sheet) has been filed against the applicant only. No offence under Section 67 of the I.T. Act has been found by the investigating officer, as such, the final report (charge sheet) has been submitted against him under Sections 354, 354D, 504, 506 IPC. All the offences are punishable with imprisonment below seven years, as such, the applicant is entitled for anticipatory bail. It is next stated that to date, bailable warrants have been issued against him and he is running from pillar to post. Learned counsel has further stated that the applicant had filed this anticipatory bail application directly before this Court, as he had apprehension of his arrest. In case, the anticipatory bail application of the applicants is allowed, he will not misuse the liberty and shall cooperate with trial.

9. Per contra, learned A.G.A. has vehemently opposed the prayer for anticipatory bail on the ground that had there been any apprehension, the applicant would have been arrested. He has not been arrested by the police so far and there is no interim protection granted to the applicant and there is no valid ground for the applicant coming directly before this Court and file the anticipatory bail application. It is next stated that the matter was referred to larger Bench, which has been decided by it on 2.3.2020.

10. Considering the rival submissions advanced by the learned counsel for the parties, the allegations against the applicant, coupled with the fact that he has filed the anticipatory bail application directly before this Court, I do not find it a fit case for grant of anticipatory bail to the applicant no. 1 Asif @ Asif Jahangir, as the arguments advanced by learned counsel for the applicants pertain to regular bail application and cannot be agitated at this stage u/s 438 Cr.P.C.

11. In view of the above, the present anticipatory bail application of the applicant no. 1 **Asif @ Asif Jahangir** is found devoid of merits and is, accordingly, **rejected**.

12. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of anticipatory bail application and the said observations shall have no bearing on the merits of the case.

(Justice Krishan Pahal)

Order Date :- 13.12.2023
Shalini