

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 7983 of 2023

Applicant :- Shiv Sevak

Opposite Party :- State of U.P.

Counsel for Applicant :- Tarun Jha

Counsel for Opposite Party :- G.A., Ghana Ram Niranjana

Hon'ble Nalin Kumar Srivastava, J.

1. List has been revised. None present for the complainant even in the revised call. Supplementary affidavit filed today is taken on record.
2. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
3. The present anticipatory bail application has been filed on behalf of the applicant - **Shiv Sevak** in Complaint Case No.28 of 2018 (Smt. Rajwati vs. Ritesh and Others), registered under Sections 323, 324, 392, 504 and 506 IPC at Police Station- Gohan, District Jalaun with a prayer to enlarge them on anticipatory bail.
4. As per prosecution story, the applicant alongwith other co-accused persons are stated to have barged into the house of the informant and are stated to have torn off her clothes and one of the co-accused person Sughar Singh is stated to have assaulted her with an axe and all the accused persons are stated to have committed gang rape with her besides causing injuries to her. There are allegations against co-accused Ritesh of having taken away her Mangalsutra.
5. Learned counsel for the applicant has stated that the applicant has been falsely implicated in the present case. The complaint case has been filed after a delay of about 18 days and there is no explanation of the said delay caused. The injury reports were found simple in nature and in the complaint case, learned Trial Judge has summoned the applicant and other co-accused persons under Sections 323, 324, 392, 504 and 506 I.P.C. only. Learned counsel has further stated that even no role of assault has been assigned to either of the applicant. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of

the allegations made against them. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. There are no criminal antecedents of the applicant. The applicant has apprehension of his arrest. Learned counsel for the applicant undertakes that the applicant has co-operated in the investigation and are ready to do so in trial also failing which the State can move appropriate application for cancellation of anticipatory bail.

6. Per contra, learned A.G.A. has vehemently opposed the anticipatory bail application but unable to dispute the submissions raised by the learned counsel for the applicant.

7. On due consideration to the arguments advanced by learned counsel for the applicant as well as learned A.G.A. and considering the nature of accusations and antecedents of the applicants, the applicants are liable to be enlarged on anticipatory bail in view of the judgment of Supreme Court in the case of "Sushila Aggarwal Vs. State (NCT of Delhi), (2020) 5 SCC 1". The future contingencies regarding the anticipatory bail being granted to applicant shall also be taken care of as per the aforesaid judgment of the Apex Court.

8. In view of the above, the anticipatory bail application of the applicant is **allowed**. Let the applicant - **Shiv Sevak** be released forthwith in the aforesaid complaint case (supra) on anticipatory bail till the conclusion of trial 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 make himself available before the court concerned as and when required;

(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 them from disclosing such facts to the court or to any police officer or tamper with the evidence;

(iii). that the applicant shall not leave India without the previous permission of the court;

(iv). that the applicant shall not tamper with the evidence during the trial;

(v). that the applicant shall not pressurize/ intimidate the prosecution witness;

(vi). that the applicant shall appear before the trial court on each date fixed unless personal presence is exempted;

(vii). that in case of breach of any of the above conditions the court concerned shall have the liberty to cancel the bail.

9. It is made clear that observations made hereinabove are exclusively for deciding the instant anticipatory bail application and shall not affect the trial.

Order Date :- 16.10.2023

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