

Court No. - 73

**Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 8313 of 2023**

Applicant :- Archana Sharma

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

Counsel for Applicant :- Sadhna Upadhyaya, Samriddhi
Upadhyaya, Sant Sharan Upadhyay

Counsel for Opposite Party :- G.A., Subham

Hon'ble Nalin Kumar Srivastava, J.

1. Heard learned counsel for the applicant, learned counsel for the informant learned A.G.A. for the State and perused the record.

2. This application has been moved on behalf of the applicant **Archana Sharma** seeking anticipatory bail in Case Crime No. 34 of 2023, under Sections 376, 341, 342, 328, 354D, 323, 506, 507 IPC and Section 3/4 POCSO Act and Section 67 (A) of the I.T. (Amendment) Act, Police Station- Tajganj, District- Agra.

3. The prosecution story as unfolded in the FIR is that the present applicant who is the real sister of the victim of this case took the victim to her employer, co-accused Pawan Verma, where she was administered some intoxicants and rape was committed with her and some obscene videos and photos were also procured. Subsequently on some other occasion she was sexually exploited by the main accused Pawan Verma and the applicant used to take her to him. She was also taken to another city by the present applicant and sexual exploitation of the victim continued for long by the main accused Pawan Verma by threatening and blackmailing her on the basis of obscene videos and photos and when protest was made by the victim she was bitterly assaulted and threatened for dire consequences. In the meanwhile the victim was married with Anshul Bhardwaj but co-accused Pawan Verma sent her photos and videos to her husband but when her husband cooperated with her, FIR was lodged on 14.01.2023 and investigation started, which is still going on.

4. It is submitted by the learned counsel for the applicant that the applicant is innocent and has no concern with the present matter. Allegations levelled against the applicant are false. It is further submitted that investigation is going-on and till date no charge-

sheet has been submitted against the accused applicant. It is further submitted that the applicant is the real sister of the victim of this case and she had absolutely no motive to make her real sister a victim of sexual assault. The whole prosecution story is totally false and there are material contradictions in the statement of the victim made under Section 161 and 164 Cr.P.C. As a matter of fact the victim having an affair with her boy friend Rahul Faujdar, wanted to marry him and the present applicant was helping her sister and she even developed pregnancy as per her own statement out of her relation with Rahul Faujdar. It is further submitted that the victim of this case is a major lady. Investigation of the case is going on in respect of the present applicant and charge sheet has been submitted against the co-accused Pawan Verma only so far. The applicant having bright future ahead has been maliciously prosecuted and the FIR has been lodged with ulterior motive against the applicant only for the reason of sibling rivalry and jealousy between the applicant and the complainant. There is no sexual tape and obscene and objectionable photos and videos relating to the victim in existence. It is further submitted that the applicant is a lady and she is cooperating with the investigation of the case and is entitled for anticipatory bail. It is lastly submitted that in case applicant is granted anticipatory bail, she will not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. and learned counsel for the informant opposed the prayer for anticipatory bail. It is submitted that in her statement under Section 161 and 164 Cr.P.C. the prosecutrix has corroborated the prosecution version and has pointed out the guilt of present accused applicant. Ample evidence has been collected against the present applicant during course of investigation. It is further submitted that the I.O. has collected the relevant photos and videos etc. and kept in a pendrive, which was given by the complainant to the I.O., which contains threat messages also.

6. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has settled held that while considering an application for grant of anticipatory bail, the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence including intimidating witnesses, likelihood of fleeing justice, such as leaving the country, etc. It has further been held that Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or

refuse it. Whether to grant or not is a matter of discretion.

7. Hence, considering the settled principles of law regarding anticipatory bail also keeping in view of the fact that the victim of the case happens to be the real sister of the applicant, there is no possibility of false implication prima face, submissions of the learned counsel for the parties, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, I deem it not a fit case to grant anticipatory bail to the present applicant. Prayer made in the application is refused.

8. The anticipatory bail application is **rejected**.

Order Date :- 1.11.2023

Fhd