

**Court No. - 73**

**Case :-** CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438  
CR.P.C. No. - 8905 of 2023

**Applicant :-** Prashant Kumar Keshwarwani

**Opposite Party :-** State of U.P. and Another

**Counsel for Applicant :-** Deepak Singh, Mohammad Khalid

**Counsel for Opposite Party :-** G.A., Birendra Singh, Yash Pratap Singh

**Hon'ble Nalin Kumar Srivastava, J.**

1. Rejoinder affidavit filed on behalf of applicant in the Court today is taken on record.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the material available on record.

2. Apprehending his arrest, the present anticipatory bail application has been filed on behalf of the applicant - **Prashant Kumar Keshwarwani** in Case Crime No. 581 of 2022, under Sections 354Kha, 498A, 323, 504, 506 I.P.C. and section 3/4 Dowry Prohibition Act, P.S. Dhoomanganj, district-Prayagraj with a prayer to enlarge him on anticipatory bail.

3. As per first information report the victim was subjected to cruelty and harassment for demand of additional dowry and her father-in-law also attempted to outrage her modesty. She was also assaulted in her matrimonial home and only after four years of marriage she was kicked out from her matrimonial home. F.I.R. was lodged on 24.8.2022 and after investigation chargesheet has been submitted.

4. It is submitted by the learned counsel for the applicant that applicant is the husband of the informant. He is innocent and he has apprehension of his arrest in the above-mentioned case, whereas there is no credible evidence against her. He has been falsely implicated into this matter. Allegations levelled against the applicant are false. The investigation of the case has been completed and charge-sheet has been filed. It is next submitted that the victim of this case has narrated a wrong story before the Investigating Officer of this case and as a matter of fact that she

was never subjected to cruelty or harassment for demand of additional dowry. He further submits that allegation of attempt to outrage the modesty of the victim was made against co-accused Santosh Kumar Kesarwani, who is the father-in-law of the victim. He also submits that the first information report was lodged after a delay of three days without any plausible explanation. The injured of this case has been medically examined after about two months of the incident. He further submits that general allegations have been levelled against the in-laws of the injured, including the applicant. He also submits that an FIR, bearing Case Crime No. 580 of 2022 was lodged by the applicant side against the informant side on the same day, i.e. on 24.8.2022, under sections 354Kha, 452, 323, 504, 506 and 395 I.P.C. and in that matter the chargesheet has also been filed. It is lastly submitted that it is a case of matrimonial dispute. No custodial interrogation is required in this matter from the applicant. Applicant has no criminal antecedents and as such he is entitled for anticipatory bail.

5. Per contra, learned A.G.A. has vehemently opposed the prayer for bail and submitted that the victim of this case was not safe in her matrimonial house. She was not only assaulted for want of additional dowry but father-in-law of the informant also tried to outrage her modesty. He further submits that being husband it is moral duty and responsibility of the applicant to keep her wife safe and secure. He also submits that after collecting ample and sufficient evidence the Investigating Officer has submitted chargesheet in this case. He further submits that the victim of this case in her statements recorded under Sections 161 and 164 Cr.P.C. has corroborated the prosecution version. He lastly submits that an application under Section 125 Cr.P.C. has been moved by the victim/wife of the applicant but so far applicant has not made his appearance before the family court and in view of the above, the applicant is not entitled to for anticipatory bail.

5. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has settled the controversy finally by holding the anticipatory bail need not be of limited duration invariably. In appropriate case, it can continue upto conclusion of trial.

It has been further held therein that anticipatory bail granted can, depending on the conduct and behavior of the accused, continue after filing of the charge sheet till end of trial.

It has been further held by the Hon'ble Apex Court 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.

6. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, considering that the victim of this case has been medically examined after about two months of the incident, general allegations have been levelled against in-laws of the victim but however, specific allegation for making an attempt to outrage the modesty of the victim has been made against co-accused Santosh Kumar Kesarwani who is father-in-law of the victim, considering the 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, in my view, it is a fit case for anticipatory bail to the applicant till end of the trial in the matter.

7. The anticipatory bail application is **allowed**.

8. In the event of arrest of the applicant in the aforesaid case crime, he shall be released on anticipatory bail till end of the trial on his furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the Court concerned with the following conditions :-

(i) The applicant shall make himself available before the court concerned on the date fixed in the matter;

(ii) 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 / her from disclosing such facts to the Court or to any police officer;

(iii) The applicant shall not leave India without the previous permission of the Court and if he has passport, the same shall be deposited by him before the S.S.P./S.P. Concerned.

9. In case of default of any of the conditions, same may be a ground for cancellation of protection granted to the applicant.

**Order Date :-** 28.10.2023

Faridul