

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 9422 of 2022

Applicant :- Love Kumar Ahlawat @ Love Ahlawat

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

Counsel for Applicant :- Pranshu Gupta, Mohit Singh

Counsel for Opposite Party :- G.A., Anurag Vajpeyi, Anurag Yadav, Mahendra Pratap, Praveen Kumar Singh

Hon'ble Krishan Pahal, J.

1. List has been revised. Supplementary affidavit filed today by the learned counsel for the applicant is taken on record.
2. Heard Sri Mohit Singh, learned counsel for the applicant and Sri Anurag Vajpeyi, learned counsel for the informant as well as Sri R.P. Patel, learned A.G.A. for the State and also perused the record.
3. The present anticipatory bail application has been filed on behalf of the applicant in F.I.R./Case Crime No. 1001 of 2018, under Sections 376-D of IPC, Police Station Section 39 Noida, District Gautambuddh Nagar, with a prayer to enlarge him on anticipatory bail.
4. As per prosecution story, the informant is stated to be living in the society at Noida 18 months prior to the institution of the present FIR. In the meantime, the applicant is stated to have been introduced to her by co-accused Manish Kumar. It is also alleged in the FIR that the co-accused Manish Kumar is stated to have taken away the educational documents, Aadhar card, Pan card, ID card etc. and had got an i10 car financed in her name. The co-accused Manish Kumar is stated to be the friend of the informant and had entered into corporeal relationship with her on the false pretext of marrying her. The applicant and co-accused Manish Kumar are stated to have threatened and blackmailed her and they had taken Rs.4,05,000/-, one Iphone 7 plus, one Ipad, a gold ring and a set of earrings from her and later on gang raped her.
5. Learned counsel for the applicant has stated that the applicant is maliciously being prosecuted in the present case due to ulterior motive and has apprehension of his arrest. He has nothing to do

with the said offence as alleged by the prosecution. Learned counsel has further stated that the applicant is stated to have been introduced by the co-accused Manish Kumar to the informant/victim on 27.07.2018. The main allegations are against the Manish Kumar who has allegedly committed suicide owing to the pressure exerted by the informant to which a complaint case was filed by the brother of the deceased person Manish Kumar as Complaint Case No.7000 of 2019 on 24.06.2019 before the Court of Additional Chief Judicial Magistrate, Court No.3, Gautambuddh Nagar.

6. Learned counsel for the applicant has next stated that the matter was settled between the parties as there were certain transactions between them. One lakh rupees has been transferred to the account of the mother of the informant and two cheques dated 25.11.2018 and 10.12.2018 of Rs.4 lakhs were also handed over to her which got dishonoured due to non-matching of signatures. Learned counsel has further stated that the case, if any, would have fallen later on u/s 138 of Negotiable Instruments Act only. There is no medical examination of the informant conducted as it has been refused by her. The statement of the victim recorded u/s 164 Cr.P.C. also states about the incident having been committed at District- Karnal, Haryana whereby the place and the hotel has not been mentioned and could not be traced by the investigating agency till date. The trial is not moving a step further as not even the charge has been framed. It is further submitted that the applicant has no criminal history. In case, the anticipatory bail application of the applicant is allowed, he will not misuse the liberty and shall cooperate with trial.

7. On the other hand, learned counsel for the informant as well as learned A.G.A. have vehemently opposed the prayer for grant of anticipatory bail on the ground that the applicant was hand in glove with the co-accused Manish Kumar and the said Manish Kumar was acquainted person of the informant for about seven years since 2011 and later on, he had introduced the applicant. The applicant, co-accused Manish Kumar and the informant lived in the very same society and, as such, are acquainted to each other. The argument tendered at Bar is false. Learned counsel has further stated that the said compromise was entered into under duress as no normal person can sign such type of settlement/agreement which categorically indicates that the FIR lodged by victim is false. The applicant and co-accused Manish Kumar have committed gang rape with her. The informant is ready to return the said amount of Rs.one lakh. It is further argued that the said

complaint case no.7000 of 2019 filed by brother of deceased Manish has been dismissed u/s 203 Cr.P.C.

8. Considering the arguments advanced by the learned counsel for the parties, the law laid down by the Apex Court in the case of "**Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC online SC 98**" and also considering the fact that there were money transactions between them coupled by the fact that Rs.1 lakh was transferred to the account of mother of the informant, I find it a fit case to enlarge the applicant on anticipatory bail.

9. Without expressing any opinion upon ultimate merits of the case either ways which may adversely affect the trial of the case, the anticipatory bail application of the applicant is **allowed**.

10. In the event of arrest of the applicant, **Love Kumar Ahlawat @ Love Ahlawat** involved in the aforesaid case crime number, shall be released on anticipatory bail till the conclusion of trial on furnishing a personal bond with two sureties each in the like amount to the satisfaction of the Presiding Officer/Court Concerned, with the conditions that:-

- i. that the applicant shall make himself available for interrogation by a police officer 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 him 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 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; and
- v. that the trial court is directed to conclude the trial of this case expeditiously.

11. In case of breach of any of the above conditions, the court concerned shall have the liberty to cancel the bail granted to the applicant.

12. It is made clear that observations made in granting anticipatory

bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 7.12.2023
Siddhant