

Court No. - 73

**Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10822 of 2023**

Applicant :- Suresh Kumar @ Sonu

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

Counsel for Applicant :- Ramanuj Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

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

2. This Criminal Misc. Anticipatory Bail Application under Section 438 Cr.P.C. has been moved by the applicant - **Suresh Kumar @ Sonu** directly before this Court seeking anticipatory bail in Special Case No.22 of 2017 arising out of Case Crime No. - 171 of 2017, under Section 306 IPC and Section 3 (2) 5 S.C./S.T. Act, Police Station - Kotwali Mahoba, District - Mahoba.

3. At the very outset it was brought to the notice of this Court that without having any rejection order from the Sessions Court, this anticipatory bail application has been directly filed before this Court.

4. In paragraph 16 of the affidavit accompanying the present anticipatory bail application, it has been so mentioned :

"16. That in the present case the learned Court below has issued the N.B.W. against the applicant and due to the aforesaid circumstances the applicant could not file any Criminal Misc. Anticipatory Bail Application before the Court below and the applicant is directly filing the present application before this Hon'ble Court."

5. The Full Bench consisting five Judges of this Court in the case of **Ankit Bharti vs. State of U.P. and another, 2020 (3) ADJ 165 (F.B.)** has discussed on the issue of concurrent jurisdiction for approaching at the first instant for anticipatory bail before High Court or Session Court and held that there must be compelling or special circumstances entitling a party to directly approach the High Court for grant of anticipatory bail.

6. The reason disclosed in paragraph 16 of the affidavit accompanying the present anticipatory bail application does not come within the category of a special reason / circumstance under which the applicant may be permitted to move anticipatory bail application directly to this High Court.

7. In the light of the above mentioned legal position, I find that in the instant anticipatory bail application, applicant has not mentioned any compelling or special circumstance to approach this Court directly without having any rejection order from the Court of Session.

8. In view of that, in the opinion of this Court, no compelling or special circumstances exist in the present case warranting the jurisdiction of this Court being invoked directly without having any rejection order from the Court of Sessions. Prayer made in the application is refused.

9. The Anticipatory Bail Application is, accordingly, **rejected**, as not maintainable at this stage.

Order Date :- 27.10.2023

SS