

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10154 of 2023

Applicant :- Bilal Ahmad

Opposite Party :- State of U.P.

Counsel for Applicant :- Krishna Kumar Shukla

Counsel for Opposite Party :- G.A., Ram Jatan Yadav

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Krishna Kumar Shukla, learned counsel for the applicant, Sri Ram Jatan Yadav, learned counsel for the informant and Sri R.P. Patel, learned A.G.A. for the State as well as perused the record.
3. The present anticipatory bail application has been filed on behalf of the applicant in Case Crime No.290 of 2022, registered under Sections 376, 406 and 506 IPC at Police Station- Nawabad, District Jhansi with a prayer to enlarge him on anticipatory bail.
4. As per prosecution story, the applicant is stated to have taken an amount of Rs.2 lakhs from the informant for getting her job on adhoc basis in health department and later on, the applicant is stated to have entered into corporal relationship with her. Subsequent to it, the applicant is stated to have come with his friends, namely Sonu Yadav and Pankaj Khatik, and they are also stated to have committed rape with her. The informant is stated to have got impregnated by the said act and the applicant and other co-accused persons are stated to have got her fetus aborted.
5. Learned counsel for the applicant has stated that the applicant has been falsely implicated in the present case. No date and time of the occurrence has been mentioned. The said relationship is stated to be for a period of six years. Learned counsel has also placed reliance on the statement of the victim recorded under Section 164 Cr.P.C., whereby she has stated that the said relationship with the applicant was out of consent as she was a divorcee and had a son out of the earlier marriage. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. 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 he has co-operated in the investigation and is ready to do so in trial also failing which the State can move appropriate application for cancellation of anticipatory bail.

6. Learned counsel for the applicant has further placed much reliance on the judgments of Apex Court passed in case of **Pramod Suryabhan Pawar vs. State of Maharashtra and Another** reported in **2019 (9) SCC 608** and **Ansaar Mohammad vs. State of Rajasthan and Another**, reported in **2022 SCC OnLine SC 886**, wherein it has been stated that entering into any kind of corporeal relationship with a person on the pretext of getting married cannot be termed as rape.

7. Per contra, learned counsel for the informant and learned A.G.A. have vehemently opposed the anticipatory bail application but unable to dispute the submissions raised by the learned counsel for the applicant.

8. 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 applicant, the applicant is 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.

9. In view of the above, the anticipatory bail application of the applicant is allowed. Let the accused-applicant- **Bilal Ahmad** be released forthwith in the aforesaid case crime (supra) on anticipatory bail till the conclusion of trial on furnishing a personal 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 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 the previous permission of the court;
- (iv). that in case charge-sheet is submitted 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.

10. 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 :- 18.10.2023
Ravi Kant

(Krishan Pahal, J.)