Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 11171 of 2023

Applicant :- Rupam Mishra
Opposite Party :- State of U.P.
Counsel for Applicant :- Ram Kumar Dubey,Abhay Krishn
Counsel for Opposite Party :- G.A.,Bina Singh,Krishna Kumar Singh

Hon'ble Shekhar Kumar Yadav,J.

1. Heard learned counsel for the applicant and learned Additional Government Advocate for the State.

2. This anticipatory bail application (under section 438 Cr.P.C.) has been moved seeking bail in Case Crime No. 350 of 2023, under sections 498-A, 323, 354, 504, 506, 376, 511 IPC and Section 3/4 of D. P. Act, P.S. Katghar, District Moradabad, during the pendency of investigation.

3. In short, allegation against the applicant is that he along with other co accused persons are said to have physically and mentally harassed the victim for dowry and on account of non fulfillment of the alleged demand of dowry and a four wheeler, the victim has also been beaten and harassed and further allegation is that he tried to outrage the modesty of the victim and also attempted to commit rape upon her.

4. Learned counsel for the applicant submits that applicant, who is devar of the victim, has been falsely implicated in the present case. Learned counsel for the applicant submits that F.I.R. has been lodged against 5 named persons roping in the entire family members. In the FIR, false allegation has been levelled against the applicant. He further submits that allegations made against the aforesaid applicant are fake and general in nature. The applicant is having definite apprehension that he may be arrested by the police any time. It is further submitted applicant lives separately from the victim. He has no criminal history. There is no credible evidence to connect the applicant in the involvement of the present case.

5. Learned AGA has opposed the prayer for bail, but could not dispute the said facts.

6. Hence without expressing any opinion on the merits of the case and considering the nature of accusations and antecedents of applicant, he is directed to be enlarged on anticipatory bail as per the Constitution Bench judgment of the Apex Court in the case of ***Sushila Aggarwal vs. State (NCT of Delhi)- 2020 SCC Online SC 98***. The future contingencies regarding anticipatory bail being granted to applicant shall also be taken care of as per the aforesaid judgment of the Apex Court.

7. In the event of arrest, the applicant shall be released on anticipatory bail. Let the applicant Rupam Mishra involved in the aforesaid crime be released

on anticipatory bail on furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the trial court concerned with the following conditions:-

(1) The applicant shall co-operate with the Investigating Officer during investigation and shall report to the Investigating Officer as and when required for the purpose of conducting investigation;

(2) 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; and

(3) The applicant shall not leave the country during the currency of trial without prior permission from the concerned trial Court.

(4) The applicant shall surrender his passport, if any, to the concerned Court forthwith. His passport will remain in custody of the concerned Court.

(5) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence and the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law to ensure presence of the applicant.

(6) In case, the applicant misuses the liberty of bail, the Court concerned may take appropriate action in accordance with law and judgment of Apex Court in the case of ***Sushila Aggarwal vs. State (NCT of Delhi)- 2020 SCC Online SC 98.***

(7) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of his bail and proceed against his in accordance with law.

8. In default or misuse of any of the conditions, the Public Prosecutor/ Investigating Officer/ first informant-complainant is at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicant.

9. With the aforesaid observations/ directions, the application stands **disposed of.**

Order Date :- 31.10.2023

RavindraKSingh

Digitally signed by :-
RAVINDRA KUMAR SINGH
High Court of Judicature at Allahabad