

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11876 of 2023

Applicant :- Ravi
Opposite Party :- State Of U.P. And 3 Others
Counsel for Applicant :- Yogesh Kumar Srivastava, Noor
Muhammad
Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. Notice has been served upon the informant / victim but none present on their behalf.
2. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the material available on record.
3. This application for anticipatory bail has been filed by the applicant - **Ravi** in connection with Complaint Case No.868 of 2022 (Ravi Vs. State of U.P.), under Sections 452, 354 IPC and 7/8 POCSO Act, Police Station North, District Firozabad.
4. As per allegations against the applicant, the applicant tried to outrage the modesty of the minor daughter of the informant after entering into his house and also made an assault upon her. An application u/s 156 (3) Cr.P.C. was moved before the Court when the F.I.R. was not lodged, which was treated as complaint case and the present applicant was summoned to face trial by the trial court under sections 452, 354 IPC and 7/8 POCSO Act vide order dated 13.3.2023.
5. It is submitted by the learned counsel for the applicant that the applicant is innocent and he has apprehension of his arrest in the above-mentioned case, whereas there is no credible evidence against him. He has been falsely implicated into this matter. Allegations levelled against the applicant are false. It is further submitted that there is no medical report on record. It is further submitted that the alleged offences are punishable with an imprisonment for a maximum period of seven years. It is further submitted that on account of some money dispute with the father of the victim, false case has been initiated against the present applicant. It is also submitted that there is no independent witness

of the alleged incident. It is further submitted that the applicant has no criminal antecedents to his credit. No custodial interrogation is required in the matter.

6. Per contra, learned A.G.A. opposed the prayer for anticipatory bail.

7. 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.

8. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, 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.

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

10. In the event of arrest of the applicant in the aforesaid complaint case, 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.

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

Order Date :- 23.11.2023 / ss