

Court No. - 73

**Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11389 of 2023**

Applicant :- Vinay Pal Singh Sengar @ Chanchal Sengar
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Awashesh Kumar, Kalp Dev Mishra
Counsel for Opposite Party :- G.A., Shailendra Singh

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 application has been moved on behalf of the applicant **Vinay Pal Singh Sengar @ Chanchal Sengar** seeking anticipatory bail in Case Crime No. 522 of 2023, under Sections-323, 506, 342, 120-B, 354-A, 376-D, IPC, Police Station -Mauranipur, District- Jhansi.
3. On several occasion the married victim was committed rape by the present applicant along with the other co-accused persons and being blackmailed on the basis of some obscene videos and photoes. The offence continued since 2020. FIR was lodged on 21.8.2023 and investigation started, which is going on.
4. It is submitted by the learned counsel for the applicant that the applicant is innocent and has no concern with the present matter. Allegations levelled against the applicant are false. It is further argued that investigation is going-on and till date no charge-sheet has been submitted against the accused applicant. It is further submitted that on account of political rivalry in respect of the election of cooperative society, the present applicant has been implicated in this case. It is further submitted that FIR of this case has been lodged very belatedly. The offence against the applicant is said to be committed on 22.11.2021 and 23.8.2022. As per contents of the FIR and her statement under Section 164 Cr.P.C. the victim herself has narrated nothing against the present applicant regarding the incident dated 22.11.2022. It is further submitted that medical evidence does not corroborate the prosecution version. It is further submitted that the accused is having no criminal history. He is cooperating with the investigation of the case and is entitled for anticipatory bail. It is

lastly submitted that in case applicant is granted anticipatory bail, he will not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. opposed the prayer for anticipatory bail. It is vehemently submitted that since the prosecutrix of this case was being blackmailed by the accused persons including the present applicant on the basis of some obscene videos, no complaint was made by the prosecutrix to any authority regarding the commission of the crime and she even could not disclose this fact to her husband. It is further submitted that there is no possibility of any false implication of the present applicant. The whole story of crime continued since 2020 and was well explained by the victim in her statement under Section 164 Cr.P.C. It is also submitted that in case of sexual assault or rape, the delay in lodging the FIR is no legal importance. It is also a case of gang rape and the applicant is not entitled for anticipatory bail.

6. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has settled held 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.

7. 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, in view of the seriousness of the case, active participation of the accused being found in the light of the statement of the prosecutrix made under Section 161 and 164 Cr.P.C., without expressing any opinion of the merits of the case, I deem it not a fit case to grant anticipatory bail to the present applicant. Prayer made in the application is refused.

8. The anticipatory bail application is **rejected**.

Order Date :- 22.11.2023

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