

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11374 of 2023

Applicant :- Vishesh Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Ram Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav,J.

1. Heard learned counsel for the applicant, learned Additional Government Advocate for the State of U.P. and perused the record.

2. This Criminal Misc. Anticipatory Bail Application has been filed seeking anticipatory bail in Case Crime No. 417 of 2023, under Sections 363, 366 IPC, P.S. Chandausi, District Sambhal during the pendency of investigation.

3. As per prosecution case, on 10.08.2023, a First Information Report was registered by the informant to the effect that the informant's sister, aged about 14 years, studies in BMG Inter College, Chandausi, and further today, when she came to school from home to study, applicant and one Nigam Kumar is said to have coaxed the minor sister of the informant and took them away on their motorcycle. It is alleged that the informant got information from the school that his sister had been seduced by two boys, then the informant along with his family searched for his sister in Chandausi and at the Khurja gate he saw that his sister was taken by applicant and one Nigam Kumar on their motorcycle to the Ghatia gate and seeing the informant, the motorcycle fell down in panic and when the informant's sister ran away, she fell on the road, due to which she got injured. The accused are residents of informant's aunt's village and informant knows them well. It is alleged that informant took care of his sister while the boys ran away with their motorcycle from the spot.

4. It is submitted that in this case applicant is innocent and has been falsely implicated by the police with ulterior motive. There is no credible evidence to connect the applicant with

the crime in question. The applicant is under apprehension of imminent arrest. In case, the applicant is released on bail, he would not misuse the liberty of bail and would cooperate with the trial.

5. Learned Additional Government Advocate, has opposed the prayer for granting anticipatory bail to the applicant. It is further submitted that looking to the statements of the victim recorded under Section 161 & 164 Cr.P.C. in which she has supported the case of the prosecution, therefore, no case for bail is made out.

6. In the light of above, looking to the facts and circumstances of this case, submissions of learned counsel for the parties as mentioned above, taking into consideration the role assigned to the applicant as per prosecution case, gravity and nature of accusation, and the statement under Sections 161 & 164 Cr.P.C., this Court is of the view that no case for exercising its discretionary power under Section 438 Cr.P.C. is made out in favour of applicant.

7. Accordingly, this application under Section 438 Cr.P.C. is **rejected**. Applicant is directed to move regular bail application before the appropriate forum and if such application is given, the court below shall consider and disposed of the bail application expeditiously in accordance with law.

Order Date :- 26.10.2023
RavindraKSingh