

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11524 of 2023

Applicant :- Smt. Rama Devi And Another

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Krishna Mani

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Krishna Mani Gupta, learned counsel for the applicants 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 applicants in Case Crime No.302 of 2019, registered under Sections 506, 120-B I.P.C., at Police Station Manda, District Prayagraj with a prayer to enlarge them on anticipatory bail.
4. As per prosecution story, the FIR was instituted by the informant on 8.9.2019 against the applicants and other co-accused persons alleging that his daughter Raziya Begum was missing since 20.8.2019 and later on it transpired that the applicants had got her abducted in collusion with other co-accused persons. There are allegations of rape against the male accused persons.
5. Learned counsel for the applicants has stated that they have been falsely implicated in this case. The applicants being lady are entitled for anticipatory bail as they cannot be held liable for offence of sexual assault. As per the radiological report, the victim was found to be 18 years of age, as such, the provisions of POCSO Act were not attracted regarding the applicants. The applicants have no criminal history to their credit. The applicants have apprehension of their arrest. Learned counsel has stated that the applicants undertake that they have co-operated in the investigation and are ready to do so in trial also failing which the State can move appropriate application for cancellation of anticipatory bail.
6. Per contra, learned A.G.A. has vehemently opposed the

anticipatory bail application on the ground that the victim has categorically mentioned the name of the applicants in her statement recorded under Section 164 Cr.P.C., whereby she has stated that the applicants had got her abducted in collusion with their sons. Learned A.G.A. has further stated that the applicants had agitated the provisions of Section 482 of Cr.P.C. by filing Application U/S 482 Cr.P.C. No.7280 of 2020 and have failed in it. The present anticipatory bail application is not maintainable in the light of the settled law of this Court in the case of ***Shivam vs. State of U.P. and Another*** reported in ***AirOnline 2021 All 484***.

7. After hearing learned counsel for the applicant as well as learned A.G.A., and taking into consideration the statement of the victim recorded under Section 164 Cr.P.C. and also in the light of judgment of this Court passed in ***Shivam (supra)***, I do not find it a fit case to grant anticipatory bail to the applicants.

8. The present anticipatory bail application is hereby found devoid of merits and is, accordingly, ***rejected***.

9. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of anticipatory bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 28.10.2023

Vikas

[Krishan Pahal, J.]