

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11519 of 2023

Applicant :- Inam Ali

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

Counsel for Applicant :- Deepak Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. This application has been moved on behalf of the applicant - **Inam Ali** seeking anticipatory bail in Case Crime No. 269 of 2022, under Sections 354-ka, 323, 324, 452, 504, 506 IPC, Police Station Nagina Dehat, District Bijnor.
2. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
3. It is submitted by the learned counsel for the applicant that applicant is innocent and he has apprehension of arrest in the above-mentioned case, whereas there is no credible evidence against him. Allegations levelled against the applicant are false. It is also submitted that the applicant has no criminal history to his credit. After completion of investigation, charge sheet has been submitted in the matter and the applicant has been cooperative during investigation. A notice under Section 41-A CrPC was given to the applicant by the Investigating Officer. It is also submitted that no charge sheet under POCSO Act has been submitted against the applicant. It is further submitted that in the medical examinations, simple injuries have been found over the bodies of the victims. No process under Sections 82 and 83 CrPC has been issued against the applicant and the applicant has not been declared absconder. In case applicant is granted anticipatory bail, he will not misuse the liberty of bail and would obey all conditions of bail. It is lastly submitted that alleged offences are punishable with the imprisonment for a maximum period of seven years.
4. Learned A.G.A. opposed the prayer for anticipatory bail.
5. I have considered the rival submissions made by the learned counsel for the parties.

6. The prosecution story, as unfolded in the F.I.R., is that three accused persons including the present applicant, entered into the house of the informant in the afternoon and there the present applicant made an attempt to outrage the modesty of the victim of this case, who was a married lady and the other two accused persons also tried to make sexual offence with her minor daughter and also made an assault upon them. F.I.R. was lodged on 4.10.2022 and investigation started which culminated into charge sheet. It reveals from the perusal of the record that no custodial interrogation is required in the matter. The I.O. of the case did not require the arrest of the present applicant during course of investigation.

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 law on the subject finally by holding that 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. Considering the settled principles of law regarding anticipatory bail, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion on the merits of the case, in my view, it is a fit case for anticipatory bail to the applicant till the end of trial.

9. The application is **allowed** accordingly.

10. In the event of arrest of the applicant, he shall be released on anticipatory bail 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 and will cooperate in the trial.

(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 office.

(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, the same may be a ground for cancellation of protection granted to the applicant.

Order Date :- 30.10.2023

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