

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11931 of 2023

Applicant :- Ashoo

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

Counsel for Applicant :- Surya Bhan Singh

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Surya Bhan Singh, learned counsel for the applicant and Sri R.P. Patel, learned A.G.A. for the State and perused the material placed on record.
3. The present anticipatory bail application has been filed on behalf of the applicant in F.I.R./Case Crime No. 0168 of 2023, under Sections 363, 366, 120-B of IPC, Police Station Machhalishahar, District Jaunpur, with a prayer to enlarge him on anticipatory bail.
4. As per prosecution story, the co-accused Manoj Kumar Bhojyawal and other named accused persons along with some unknown persons are stated to have enticed away the minor daughter aged about 16 years and 3 months of the informant in the night of 11.7.2023 sometime after 03:00 AM.
5. The submission of learned counsel for the applicant is that the applicant has been falsely implicated in the present case. He is simply a neighbour of the informant and he himself had informed the informant about having seen his daughter with the co-accused Manoj Kumar Bhojyawal. Learned counsel has further stated that

the applicant is not named in the FIR and later on, his name has come up only on the basis of suspicion. The FIR itself indicates that the informant had seen his daughter studying at 03:00 AM thereafter she slept over, therefore, the occurrence, if any, is of after 03:00 AM only. Learned counsel has further stated that the applicant is a businessman involved in selling vegetables in the sabzi mandi. He has no criminal history. Learned counsel has next stated that the applicant is entitled for anticipatory bail as he has cooperated during investigation and is ready to cooperate in future as well.

6. Per contra, learned A.G.A. has vehemently opposed the bail application on the ground that there was regular contact between the applicant and the main accused Manoj Kumar Bhojyawal and he had talked to him between 12:24 to 12:55 AM the same night. His car was used by the co-accused in taking away the minor daughter of the informant. Learned AGA has also stated that the said fact of taking away the victim in car stands supported by CCTV footage. He was seen talking to the victim and co-accused person at 12:56 AM. The victim having studying at 03:00 AM may be mistakenly quoted in the FIR as nobody is sure about the time at wee hours of the day. Learned AGA has also stated that the victim has yet not been recovered and there is nothing on record to suggest her whereabouts. Non-bailable warrant has also been issued against the applicant since 03.10.2023.

7. In rebuttal, learned counsel for the applicant has stated that nobody has seen the accused and the victim going in the said car rather they had been seen waving at each other.

8. After hearing the learned counsel for the parties and taking into consideration the fact that there was conversation between the

applicant and the co-accused Manoj Kumar Bhojyawal between 12:24 to 12:55 AM which is an awkward time and the car being used coupled with the fact that victim has yet not been recovered, I do not find it a fit case to enlarge the applicant on anticipatory bail.

9. Accordingly, the anticipatory bail application is **rejected**.

(Justice Krishan Pahal)

Order Date :- 1.11.2023

Siddhant