

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 12358 of 2023

Applicant :- Mahtab

Opposite Party :- State of U.P.

Counsel for Applicant :- Syed Mohammad Nawaz, Mohd Abdullah Tehami

Counsel for Opposite Party :- G.A., Chandra Shekhar Mishra

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Syed Mohammad Nawaz, learned counsel for the applicant and Sri Chandra Shekhar Mishra, learned counsel for the first Informant as well as Sri Yogesh Mishra, 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 applicant in F.I.R./Case Crime No. 231 of 2023, under Sections 498-A, 354, 504, 323, 325, 307 of IPC and Sections 3/4 of Muslim Women (Protection of Rights on Marriage) Act, 2019, Police Station- Gangoh, District- Saharanpur, with a prayer to enlarge him on anticipatory bail.
4. As per the prosecution story, the marriage of the brother of the applicant Shadab was solemnized with the informant as per Muslim Rites. The applicant, who happens to be the brother-in-law (Devar) of the informant, along with his brother Shadab is said to have been assaulted the informant on 18.08.2023 at about 09:30 PM.
5. Learned counsel for the applicant has stated that the applicant has been falsely implicated in the present case. The FIR is delayed by two days and there is no explanation of the said delay caused. In all three FIRs have been instituted against the applicant and other family members by the informant and her mother. In addition to it, the sister of the informant has also filed an application u/s 156(3) Cr.P.C. Learned counsel has further stated that the injury report is fake and has been fudged as certain pictures have been annexed as Annexure-17 to the affidavit along with anticipatory bail application which indicate that after one month i.e. on 24.10.2023, she was hail and hearty. The victim is seen moving around and taking out the activity as normal person, although it is not possible for a person who has sustained injuries in her ribs to move around so freely just after one month of the incident.
6. Learned counsel for the applicant has further stated that the brother of the applicant has filed an application u/s 156(3) Cr.P.C. against the informant and

other persons. In addition to it, the application u/s 4 of Muslim Dissolution of Marriage Act, 2016 has been filed before the Court of Principal Judge, Family Court, Saharanpur as Muslim Marriage Case No.1229 of 2023. Learned counsel has further stated that the present FIR is a counterblast to the said application u/s 156(3) Cr.P.C. and the petition for dissolution of marriage. The applicant has no previous criminal history except the said four cases instituted by the same party.

7. Per contra, learned counsel for the first Informant as well as learned AGA have vehemently opposed the prayer for anticipatory bail on the ground that the injuries are serious and grievous in nature and the statement of the witnesses indicate towards the complicity of the applicant in the case. Only the applicant and his elder brother has been made an accused and the other family members have not been made an accused in the said incident.

8. Considering the facts and circumstances of the case and also the arguments advanced by the learned counsel for the parties, this Court finds that the arguments tendered at bar pertain to regular bail application and cannot be agitated u/s 438 Cr.P.C. coupled by the fact that the criminal history of the applicant has not been properly explained, therefore, I do not find it a fit case for granting the anticipatory bail to the applicant.

9. In view of the above, the present anticipatory bail application is rejected.

(Justice Krishan Pahal)

Order Date :- 23.11.2023
Siddhant