

Court No. - 72

**Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12560 of 2023**

Applicant :- Israr

Opposite Party :- State of U.P.

Counsel for Applicant :- Akash Tomar

Counsel for Opposite Party :- G.A., Amar Jeet Upadhyay

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Akash Tomar, learned counsel for the applicant, Sri Amar Jeet Upadhyay, learned counsel for the informant, Sri Anit Kumar Shukla, learned A.G.A. for the State and perused the material placed on record.
3. The present application for anticipatory bail has been filed for anticipatory bail in Case Crime No.220 of 2023, under Sections 323, 324, 307, 354 and 498A IPC, 1860, 3/4 The Dowry Prohibition Act, 1961 and 3/4 Muslim Women (Protection of Rights on Marriage) Act, 2019, Police Station Bhawanpur, District Meerut, during the pendency of trial.
4. As per prosecution story, the marriage of the son of the applicant Irshad was solemnized with the daughter of the informant as per Muslim Rites on 05.03.2022. The applicant and other family members are stated to have subjected her to cruelty for demand of dowry, as such on 18.07.2023 at about 2:30 p.m., the applicant is stated to have assaulted her and thrown her at one Rukanpur brick-kiln. The witness Sayad is stated to have informed the informant, as such he had taken the injured person to the police station and thereby was admitted to the hospital.
5. Learned counsel for the applicant has submitted that the applicant has been falsely implicated in the present case. The prosecution story stands falsified on the ground that the FIR has been registered at 10:00 p.m. on 18.07.2023 while the medical examination of the victim has been conducted on the same day at 05:05 p.m. and she was taken for medical examination by HC 741 Sabita, from P.S. Bhawanpur.
6. Learned counsel for the applicant has further stated that even there is overwriting in the general diary, which indicates foul

play. The victim might have sustained injuries elsewhere and was thus present at brick-kiln, as such the present story has been cooked up just to harass the applicant and other family members. The investigation is going on and there are no criminal antecedents of the applicant. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length.

7. Per contra, learned counsel for the informant and learned A.G.A. have opposed the anticipatory bail application alleging that the arguments tendered at Bar pertain to regular bail application and cannot be agitated at the stage of 438 Cr.P.C. The informant is a villager and rustic person and does not know the nuisances of lodging the FIR.

8. After hearing learned counsel for the parties and taking into consideration the fact that the arguments tendered at Bar pertain to regular bail application and cannot be agitated at the stage of 438 Cr.P.C., I do not find it a fit case for grant of anticipatory bail to the applicant.

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

10. 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 :- 28.11.2023
Ravi Kant

(Krishan Pahal, J.)