

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12693 of 2023

Applicant :- Maan Singh@ Karan Singh

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

Counsel for Applicant :- Vishesh Kumar, Surendra Kumar Patel

Counsel for Opposite Party :- G.A., Janardan Prasad Tripathi

Hon'ble Nalin Kumar Srivastava, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
2. This application has been moved on behalf of the applicant **Maan Singh@ Karan Singh** seeking anticipatory bail in Case Crime No. 338 of 2023, under Sections 452, 354(kha), 376-D, 504 IPC, Police Station Nawabganj, District Allahabad.
3. It is alleged in the F.I.R. that when the informant was alone at her house, the present applicant after entering into the house of the victim committed rape to her and the police did not lodge the F.I.R. despite several efforts and subsequently, on the basis of an Application U/s 156(3) Cr.P.C., the F.I.R. was lodged in this matter after the order passed by the Magistrate on 28.07.2023.
4. It is submitted by the learned counsel for the applicant that the applicant is innocent and has no concern with the present matter. Allegations levelled against the applicant are false. It is further argued that investigation is going-on and till date no charge-sheet has been submitted against the accused applicant. It has been submitted that in case applicant is granted anticipatory bail, he shall not misuse the liberty of bail and would obey all conditions of bail.
5. It is further submitted that both the parties belong to the same family and they have a property dispute regarding which some disputes have also taken place but informant side did not satisfy with that and the partition suit was also filed from the informant side and when no injunction order was passed in that suit, the present F.I.R. was lodged on the basis of false and fabricated facts. It is next submitted that after filing of an Application under Section 482 Cr.P.C. then the police report called for by the Magistrate

concerned and a specific report was sent by the police with the allegations regarding the present incident. It is further submitted that only due to the animosity of the property dispute, the present F.I.R. of this case has been lodged very belatedly and the medical report also does not support the prosecution version, even at the time of the medical examination nothing material has been disclosed by the victim to the doctor. It is next submitted that the criminal history of the applicant has been explained and he has been cooperative with the I.O. of the case so far and as such, he is entitled for anticipatory bail.

6. Per contra, learned A.G.A. as well as learned counsel for the informant/victim have opposed the prayer for anticipatory bail and it has been submitted that it is a case of gang rape with a married lady. It is further submitted that since informant was pressurized by the police, the F.I.R. was not lodged in the police station and that is why, it was lodged very belatedly after the order of the court. It is further submitted that in her statement under Sections 161 & 164 Cr.P.C., the victim has specifically corroborated the prosecution version. It is further submitted that there was no possibility for false implication against the present applicant alleging such serious and notable charges in the F.I.R. and as such, the applicant is not entitled for anticipatory bail.

7. The present case relates to gang rape committed against a married lady in her own house. Ample evidence has been collected against the present applicant so far. He has not assigned the main role for committing the rape with the poor prosecutrix.

8. *In Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1*, the Hon'ble Apex Court has settled held 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.

9. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant, all attending facts and circumstances of the case and the fact that allegations are serious in nature, without expressing any opinion on the merits of the case, in my view, it is not a fit case for anticipatory bail to the

applicant. Prayer made in the application is refused.

10. The application is **rejected**.

Order Date :- 11.12.2023

Shivangi