

**Court No. - 73**

**Case :-** CRIMINAL MISC ANTICIPATORY BAIL  
APPLICATION U/S 438 CR.P.C. No. - 12737 of 2023

**Applicant :- Jagdeesh Tiwari**

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Vinod Kumar Tirpathi, Manoj Kumar  
Tripathi

**Counsel for Opposite Party :-** G.A.

**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 **Jagdeesh Tiwari** seeking anticipatory bail in Case Crime No. 480 of 2023, under Sections 364, 506 IPC, Police Station Dadari, District- G.B. Nagar.
3. The informant along with her son was taken away by the named accused persons and his son was thrown in a canal and the informant was bitterly beaten by all the named accused persons including the present applicant. FIR was lodged on 6.9.2023 and investigation started, which is going on.
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 is further submitted that the applicant is the father-in-law of the informant and there is a matrimonial dispute between informant and her husband Ashish Tiwari, the son of the applicant. It is also submitted that due to the aforesaid matrimonial dispute the present applicant has been falsely implicated in this case whereas he has no concern with her daughter-in-law, the informant. It is also submitted that no specific role has been assigned to the present applicant and only a general role has been assigned to all the accused persons in this case. It is further submitted that the applicant lives separately from his son and the informant. The applicant has no criminal history and he is cooperating with the investigation and is entitled for anticipatory bail. 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. Learned A.G.A. opposed the prayer for anticipatory bail. It is vehemently submitted that in her statement under Section 161 and 164 Cr.P.C the informant has narrated the active role of the present applicant in the commission of the offence and even in her subsequent statement given to the I.O. under Section 161Cr.P.C. she has corroborated the FIR version. It is further submitted that the son of the informant who was kidnapped by the named accused persons including the present applicant, has not been traced so far. It is also submitted that in view of the seriousness of the offence, the applicant is not entitled for anticipatory bail.

6. In the present case the son of the informant, who was kidnapped by the applicant and other co-accused persons and was thrown in a canal has not been traced so far. Custodial interrogation is certainly required in the present matter.

7. 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.

8. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, I deem it not a fit case to grant anticipatory bail to the present applicant. Prayer made in the application is refused.

9. The anticipatory bail application is **rejected**.

**Order Date :- 6.12.2023**

Fhd