

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12994 of 2023

Applicant :- Uday Pratap Shukla @ Kaptan Shukla

Opposite Party :- State of U.P.

Counsel for Applicant :- Sheetala Prasad Pandey

Counsel for Opposite Party :- G.A.,Kartikey Pandey

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 **Uday Pratap Shukla @ Kaptan Shukla** seeking anticipatory bail in Case Crime No. 186 of 2023, under Sections 323, 504, 506, 315 IPC, Police Station Harraiya, District Basti.
3. It is alleged in the F.I.R. that the informant/victim was assaulted by the named accused applicant, who kicked upon her back and abdomen which caused bleeding to her. An F.I.R. was lodged on 22.06.2023 and investigation started, which is still 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 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 it is a case of false implication and there was a simple altercation between the parties in respect of levelling the soil. It is next submitted that the ingredients of Section 315 of I.P.C. are missing in this case. It is also submitted that the accused applicant had no knowledge about the pregnancy of the victim hence even if it is presumed that the injured was kicked by the accused applicant over her abdomen, which caused abortion to her, no offence under Section 315 I.P.C. is made out. It is further submitted that the medical evidence does not corroborate the prosecution version. It is further submitted that the applicant is

having no criminal history to his credit and he has been cooperative with the I.O. of the case so far and as such, he is entitled for anticipatory bail.

6. Learned A.G.A. opposed the prayer for anticipatory bail and it has been submitted that there was no question of any false implication of the present applicant and the doctor who medically examined the injured had made a specific statement that when ultra sound was performed, it was found that the fetus is not surviving and some parts of fetus were present in her abdomen. It is also submitted that the medical documents correlate with the prosecution story that the offence is very serious because the assault caused termination of pregnancy of the poor informant.

*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, 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.

9. The application is **rejected**.

Order Date :- 11.12.2023

Shivangi