

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 13296 of 2023

Applicant :- Monu Kumar

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

Counsel for Applicant :- Gaurav Singh Chauhan, G.S. Chauhan

Counsel for Opposite Party :- G.A., Jitendra Singh

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri G.S. Chauhan, learned counsel for the applicant, Sri Jitendra Singh, learned counsel for the informant and Ms. Ifrah Islam, 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 Case Crime No.619 of 2023, registered under Sections 376, 506, 328 I.P.C. at Police Station- Amroha Nagar, District- Amroha with a prayer to enlarge him on anticipatory bail.
4. As per prosecution story, the applicant is stated to be an employee in the same office to that of the informant and is stated to have taken her to his room on 14.6.2023 at about 06:00 p.m. on the pretext of fetching certain documents, as such spiked her drink rendering her unconscious and later on committed rape with her. There are further allegations of the applicant video recording the said act. The applicant is stated to have blackmailed her to make the said video viral on social media, as such kept on entering into physical relationship with her. Later on, he is stated to have promised her to marry, as such, both had entered into corporeal relationship with each other, but subsequent to it, the applicant is stated to have refused to marry her, as such the FIR has been instituted.
5. Learned counsel for the applicant has stated that he has been falsely implicated in this case. The FIR is delayed by about more than four months and there is no explanation of the said delay caused. Learned counsel has stated that there is no injury report to corroborate the prosecution story. The victim herself was granted job on compassionate ground as her husband had expired. The applicant is an unmarried person and the instant FIR has just been instituted to coerce the applicant to marry

with her.

6. Learned counsel for the applicant has further placed much reliance on the judgments of Apex Court passed in case of **Pramod Suryabhan Pawar vs. State of Maharashtra and Another** reported in **2019 (9) SCC 608** and **Ansaar Mohammad vs. State of Rajasthan and Another**, reported in **2022 SCC OnLine SC 886**, wherein it has been stated that entering into any kind of corporeal relationship with a person on the pretext of getting married cannot be termed as rape.

7. 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. The applicant has apprehension of his arrest. Learned counsel has stated that the applicant undertakes that he has co-operated in the investigation and is ready to do so in trial also failing which the State can move appropriate application for cancellation of anticipatory bail.

8. Per contra, learned counsel for the informant and learned A.G.A. have vehemently opposed the anticipatory bail application on the ground that the statement of the victim recorded under Section under Section 164 Cr.P.C. completely corroborates the prosecution story, as such the applicant is not entitled for anticipatory bail.

9. On due consideration to the arguments advanced by learned counsels for the parties as well as learned A.G.A., considering the nature of accusations coupled with the fact that there is delay in institution of FIR and the applicant has no criminal antecedents to his credit, the applicant is liable to be enlarged on anticipatory bail in view of the judgment of Supreme Court in the case of **"Sushila Aggarwal Vs. State (NCT of Delhi), (2020) 5 SCC 1"**. The future contingencies regarding the anticipatory bail being granted to applicant shall also be taken care of as per the aforesaid judgment of the Apex Court.

10. In view of the above, the anticipatory bail application of the applicant is allowed. Let the accused-applicant- **Monu Kumar** be released forthwith in the aforesaid case crime (supra) on anticipatory bail till the conclusion of trial on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i). that the applicant shall make himself available for interrogation by a police officer as and when required;

- (ii). that the applicant shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer or tamper with the evidence;
- (iii). that the applicant shall not leave India without the previous permission of the court;
- (iv). that in case charge-sheet is submitted the applicant shall not tamper with the evidence during the trial;
- (v). that the applicant shall not pressurize/ intimidate the prosecution witness;
- (vi). that the applicant shall appear before the trial court on each date fixed unless personal presence is exempted;
- (vii). that in case of breach of any of the above conditions the court concerned shall have the liberty to cancel the bail.

11. It is made clear that observations made hereinabove are exclusively for deciding the instant anticipatory bail application and shall not affect the trial.

Order Date :- 16.12.2023

Vikas

[Krishan Pahal, J.]