

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S
438 CR.P.C. No. - 13725 of 2023

Applicant :- Mohammad Imtiyaz

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Ashutos Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Raghuvansh Mishra, Advocate holding brief of Sri Ashutos Kumar Pandey, learned counsel for the applicant and Sri P.C. Srivastava, learned Additional Advocate General assisted by Sri Rishi Chaddha, learned A.G.A. for the State.
3. The present anticipatory bail application has been filed on behalf of the applicant in Case Crime No.305 of 2023, registered under Sections 328, 376-D, 365, 506 I.P.C., Section 3/5(1) of Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021 and Section 5 of Immoral Traffic (Prevention) Act, 1956 at Police Station- Bewar, District- Hamirpur, with a prayer to enlarge him on anticipatory bail.

PROSECUTION STORY

4. The informant/victim instituted an FIR at Police Station Bewar, District Hamirpur on 4.11.2023 with the following allegations. The victim was studying at Allahabad University since 2005 and met one Rekha Patel who used to frequently visit the girls hostel and used to take the girls for outing in addition to giving them several gifts. The informant was lured by the said lady Rekha Patel and went to Yashua Taberriacle Church, Myorabad where she met Ivon Das (pastor), R.B. Lal @ Baba Ji, Imtiyaz Ahmad (applicant), David Philip, Vinod B. Lal and Ramakant Dubey. Co-accused R.B. Lal @ Baba Ji offered her job for a secured future and marriage in lieu of her conversion into Christianity. On 11.11.2005 at about 10 a.m. during a special prayer, she was invited to the guest house

of Jahanara Ahmad within SHUATS Campus at the behest of R.B. Lal @ Baba Ji through Ranu Prasad. The victim was offered spiked cold drink and was raped there. On her coming to consciousness, she found herself and R.B. Lal @ Baba Ji without clothes. The said R.B. Lal @ Baba Ji threatened her and offered her a job for keeping mum. In the meantime, the said sexual assault by R.B. Lal @ Baba Ji continued and the victim kept silent out of fear.

5. In July, 2014, Registrar P.A. Sunil John called her to SHUATS where she found Sunil John, Rekha Patel and Imtiyaz Ahmad (applicant). On 20.8.2014 at about 09:00 p.m., the applicant Imtiyaz Ahmad called her to the SHUATS guest house and raped her and threatened her not to reveal the said fact lest her life shall be ruined and the applicant alongwith R.B. Lal @ Baba Ji, Rekha Patel, Ivon Das, Ramakanat Dubey, Vindo B. Lal, Om Prakash Rathi and others forced her to marry one Vijay Kumar Chaudhary aged about 35 years who was already married and had a child. The victim was forced to sign on blank stamp papers and she had apprehension that the said documents may be used against her. The said husband has also been absconding at the behest of these persons. The aforesaid persons are stated to have even forced her to illegal activities as conversion etc. The victim was bearing the said physical and mental harassment since 2005 and somehow garnered courage to report the matter.

6. The F.I.R. was instituted and investigation taken up against all the accused persons.

RIVAL CONTENTIONS

(Arguments on behalf of applicant)

7. Learned counsel for the applicant has stated that the allegations against the applicant of gang-rape are false. The solitary allegation against the applicant is of raping the victim on 20.8.2014 which does not stand corroborated by any medical evidence whatsoever. The F.I.R. is delayed by about nine years. The religion of the applicant is Islam and not

Christian, as such the allegation of his involvement in conversion to Christianity is false. Learned counsel has further stated that the allegation of abducting the husband of the victim stands falsified by Annexure-5, which is the application given before the Registrar, SHUATS by one Satish Kumar who has alleged that the victim and her husband Vijay Kumar Chaudhary had duped him and taken an amount of Rs.5,50,000/- for getting him job in SHUATS. Learned counsel has stated that on the said complaint an inquiry was set-up by the University and the applicant was made the Chairman of the said inquiry committee alongwith two members Ms. Ranu Prasad and S.K. Nath. The inquiry report submitted by the said committee headed by the applicant found the allegations against the victim and her husband true, thereby it was recommended that she should be transferred from the Finance Office, SHUATS to other department/unit with immediate effect and her contractual annual appointment may not be renewed further. The said inquiry report has been filed as Annexure-9 to the affidavit. On the recommendations of the committee, the victim was transferred to the Directorate of Seed and Farm, SHUATS on 28.3.2022 and the victim was terminated of her contractual appointment on June 30th, 2022.

8. Learned counsel for the applicant has further stated that the instant F.I.R. is counterblast to the said removal from her contractual appointment which is the fall out of the inquiry conducted by the applicant. Learned counsel has further stated that the victim had filed a petition Writ-A No.13888 of 2022 challenging her removal, whereby she has not been granted any relief whatsoever and the same allegations have been levelled in it which stand mentioned in the order dated 13.10.2022 of this Court, which has been filed as Annexure-12 to the affidavit, as such the present F.I.R. being counterblast to her removal from job stands fortified. Learned counsel has stated that the allegations of abduction/abscondance of the husband of the victim are also false. The truth is that the informant/victim and her husband have parted ways and

had agreed to discontinue their marriage on 1.3.2022, the said settlement has been filed as Annexure-13 to the affidavit.

9. Learned counsel for the applicant has further stated that the applicant is a reputed person and at the time of the alleged offence, he was at the Embassy of the State of Libya, New Delhi, the said certificate has been filed as Annexure-15 to the affidavit, whereby it is stated that on 19th and 20th August, 2014, the applicant had attended the meeting at Embassy premises New Delhi, as such it was not possible for the applicant to be present at the time of commissioning of offence of rape on 20.8.2014. He is entitled for anticipatory bail on the ground of his *alibi*.

10. Learned counsel for the applicant has further stated that the criminal history of the applicant stands explained by the fact that the Case Crime Nos.54 of 2023, 55 of 2023 and 60 of 2023 have been instituted against the co-accused persons at a go at P.S. Kotwali Fatehpur with similar allegations of criminal conspiracy for conversion. Learned counsel has stated that the applicant has been enlarged on bail in the three cases as he was not named in the FIRs but his name had come up in the additional statement of the informant. Learned counsel has further stated that as far as Case Crime No.224 of 2022 is concerned, it is also of similar nature and has also been registered at the same police station and the applicant is on bail in the said case. The applicant is not a previous convict and he has cooperated in the trial and is ready to cooperate in the aforesaid trial also. The instant FIR has been instituted just to malign the applicant in the society and tarnish his image. The applicant being a reputed person of the society is entitled for anticipatory bail.

(Arguments on behalf of opposite party)

11. Sri P.C. Srivastava, learned Additional Advocate General assisted by Sri Rishi Chaddha, learned A.G.A. for the State has vehemently opposed the present anticipatory bail application on the ground that applicant has criminal history of five cases that too of similar nature, as such the case does not fall within the parameters of Section 438 Cr.P.C.

The arguments tendered at Bar pertain to regular bail, as such he is not entitled for anticipatory bail. Learned A.A.G. has also stated that there are allegations of rape against the applicant and he has categorically committed the said offence and himself has conducted the inquiry against the victim just to coerce her and keep her involved in the illegal activities committed by him in collusion with other co-accused persons.

12. Learned A.A.G. has further stated that all the documents have been manufactured by the applicant as the document of *alibi* has been prepared at the time of filing of this anticipatory bail application as the date mentioned in it is 16.11.2023 on the certificate of Embassy of the State of Libya, New Delhi. The allegations against the applicant of rape are of serious in nature. As far as the matter of conversion is concerned, there are allegations against the applicant of hatching criminal conspiracy against the informant.

CONCLUSION

13. After hearing learned counsel for the applicant as well as learned A.G.A. for the State and taking into consideration the allegations coupled with the fact that applicant has criminal history of four cases of similar nature and the arguments tendered at Bar pertain to regular bail which cannot be agitated under the provisions of Section 438 Cr.P.C., at this point of time, I do not find it a fit case for grant of anticipatory bail to the applicant.

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

15. 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 :- 12.12.2023/ Vikas

[Krishan Pahal, J.]