

**Court No. - 73**

**Case :- CRIMINAL MISC ANTICIPATORY BAIL  
APPLICATION U/S 438 CR.P.C. No. - 13696 of 2023**

**Applicant :- Vidya Sagar**

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

**Counsel for Applicant :- Sunil Kumar**

**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 - **Vidya Sagar** seeking anticipatory bail in Case Crime No. 0080 of 2023, under Sections 354 (C), 384, 504, 506, 376 IPC, Section 66E, 67A I.T. Act, and Section 4/6 Indecent Representation of Women (Prohibition) Act, Police Station- Mauaima, District- Prayaraj.
3. The present applicant used to make indecent chat with the victim of this case by way of threatening and blackmailing her on the basis of some alleged obscene videos and photograph relating to the victim and he also grabbed some money from the victim by way of blackmailing, when the matter was disclosed by the victim to her husband and he protested, he was threatened by the applicant for life but his mobile phone was snatched by the family members of the victim. FIR was lodged on 22.02.2023 and investigation started, which is going on.
4. It has been submitted by the learned counsel for the applicant that applicant is innocent and he has apprehension of arrest in the above-mentioned case, whereas there is no credible evidence against him. Allegations levelled against the applicant are false. Investigation is going on in the matter. It is further submitted that it is a clear case of counter blast. As a matter of fact the present applicant had himself moved an application to the police station, Prayagraj in respect of assault and robbery of mobile phone and cash rupees. This application was moved on 14.01.2023 and applicant was medically examined on 19.01.2023 and he sustained several injuries caused by hard and blunt object as found by the doctor. It is further submitted that the applicant was kidnapped by

the husband of the victim on 17.02.2023 and when he was not traced an application in his behalf was moved to the police by Sunil Kumar, the brother of the present applicant and after his recovery he was again medically examined on 21.02.2023 and many injuries were found to him it is further submitted that after the said proceedings a counter blast FIR has been lodged in this matter alleging therein false allegations against the present applicant and the co-accused. It is also submitted that there is no injury report of the victim/ informant or any person of his family. It is also submitted that during investigation the present applicant has been cooperative. No evidence has been collected by the I.O. so far in respect of making obscene videos or photograph viral on social media. The applicant is having no criminal history to his credit and is entitled for anticipatory bail. 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 but however could not contradict the factual background as submitted by the learned counsel for the applicant.

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

7. In **Siddharth Vs. State of Uttar Pradesh & Another, (2022) 1 Supreme Court Cases 676**, the Hon'ble Apex Court has held that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it. If arrest is made routine, it can cause incalculable harm to the reputation and self-esteem of a person. If the Investigating Officer has no reason

to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation, then there is no compulsion on the officer to arrest the accused.

8. 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, in my view, it is a fit case for anticipatory bail to the applicant till filing of police report under Section 173(2) Cr.P.C. before the competent Court.

9. The application is **allowed** accordingly.

10. In the event of arrest of the applicant, he shall be released on anticipatory bail on his furnishing a personal bond of Rs.50,000/- with two sureties each in the like amount to the satisfaction of Station House Officer of the police station concerned with the following conditions:-

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

(ii) 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/her from disclosing such facts to the Court or to any police office.

(iii) The applicant shall not leave India without the previous permission of the Court and if he has passport, the same shall be deposited by him before the S.S.P./S.P. Concerned.

11. In case of default of any of the conditions, the Investigating Officer shall be at liberty to file appropriate application for cancellation of interim protection granted to the applicant.

**Order Date :- 12.12.2023**

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