

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 933 of 2023

Applicant :- Jamil Ahmad

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home Civil Sectt. Govt.
Of U.P. Lko.

Counsel for Applicant :- Archana Rawat, Jyoti Rawat

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Ms Archana Rawat, learned counsel for the applicant as well as Sri Rakesh Kumar Singh, learned A.G.A. for the State and perused the record.

2. On 20.04.2023, after hearing learned counsel for the applicant and learned A.G.A. for the State, this Court had passed the following order:

"Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

The present application under Section 438 of Cr.P.C. has been filed for anticipatory bail in Case Crime No.157 of 2022 under sections 376, 354, 313, 323, 504, 506 I.P.C., Police Station Saadatganj, District Lucknow.

Learned counsel for the applicant has submitted that applicant has been falsely implicated in the present case as victim was in affair with son of the applicant, thereafter, they entered into 'Nikah' and started living separately. She further submitted that due to some dispute in between son of the applicant and victim, only with the intention to make pressure on the applicant (father-in-law) and his wife (mother-in-law), they were also dragged in the present case by alleged F.I.R. on the basis of incorrect facts. She further submitted that as per the prosecution case, when the victim came to the house of the applicant for making complaint as she was carrying pregnancy, then applicant tried to molest her and his wife also beaten her and forced to consume some medicine and thereafter, fetus was aborted. She further submitted that there is no evidence of alleged incident, except her statement. She further submitted that during the course of investigation, applicant never taken into custody and cooperated in the investigation and charge sheet has been filed against the applicant for the offences under Section 323, 504, 506, 354 (kha) of I.P.C. and all the offences are punishable upto seven years. She also relied on the decision of Hon'ble Supreme Court in the case of Hon'ble Supreme Court in the case of Sushila Agarwal & Ors. Vs. State (NCT of Delhi) & Ors. reported in MANU/SC/0100/2020 and Siddharth Vs. State of

U.P. reported in 2021 SCC Online SC 615 and requested for kind indulgence of this Court. The applicant never misuse the liberty given by the Investigating Officer, therefore, the anticipatory bail may be granted to him.

Learned A.G.A. opposed the prayer of applicant but he does not dispute this fact that victim was in affair with son of the applicant and thereafter, they entered into 'Nikah' but due to some dispute in between them, F.I.R. in question was lodged. He further submitted that after investigation, sufficient evidences were found against the applicant and charge sheet was filed by the Investigating Officer, therefore, applicant is not entitled for anticipatory bail.

Considering the argument of learned counsel for the parties and going through the contents of the FIR as well as statements recorded under Sections 161 and 164 Cr.P.C., documents of 'Nikah' as well as photograph, it is undisputed that victim was in affair with the son of the applicant and due to some dispute in between them, she lodged F.I.R., therefore, I am of the view that the applicant is entitled for anticipatory bail.

Till the next date of listing, in the event of arrest of the applicant, namely, Jamil Ahmad in the aforesaid case, he shall be released forthwith by the Station House Officer of the police station concerned, on his furnishing personal bond of Rs.50,000/- with the following condition:-

(i) That the accused-applicant shall make themselves available for interrogation by police authorities as and when required and will cooperate with the investigation;

(ii) That the accused-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; and

(iii) That the accused-applicant shall not leave India without the previous permission of the Court.

However, it is directed that the applicant will join and participate in each and every aspect of Investigation and will lend full assistance to the Investigating Agency, even with regard to 'discovery of fact' if and when required so by the Investigating Agency.

List on 29.5.2023 for final disposal.

In the meantime, the AGA may file counter affidavit.

On the next date, matter shall be decided finally."

3. The State has filed a counter affidavit opposing the anticipatory bail application but no new fact has come to light which may persuade this court to take a view, other than the view taken at the time of granting interim anticipatory bail to the applicant.

4. The learned counsel for the applicant has filed a rejoinder affidavit today in the court, which is taken on record. He has also submitted that the bail bonds have also been furnished in compliance of the interim order passed by this Court.

5. In view of above, the interim order dated 20.04.2023 is made absolute and the anticipatory bail application is **allowed**.

Order Date :- 27.10.2023

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