

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2211 of 2023

Applicant :- Nikhil Shukla

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home U.P.
Lko. And 4 Others

Counsel for Applicant :- Santosh Kumar Jha

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Santosh Kumar Jha, the learned counsel for the applicant, Sri Jayant Singh Tomar, the learned AGA-I for the State and perused the records.
2. The instant application has been filed by the applicant seeking anticipatory bail in an FIR bearing Case Crime No. 586 of 2021, under Sections 323, 506 IPC & 11/12 POCSO Act, Police Station Madiyon, District Lucknow.
3. The aforesaid case has been registered on the basis of an FIR lodged on 02.11.2022 at 23:16 hours against the applicant and one Golu alias Mukesh Chaurasia, stating that the co-accused had enticed away the informant's niece aged about 14 years between 07:00 and 08:00 on the aforesaid date, to an unknown place on IIM Road. The applicant was present there since before and both the accused persons tried to rape the informant's niece and threatened to spread her video virally. The victim told about the incident after coming back home.
4. In the statement of the victim recorded under Section 161 Cr.P.C., she stated that she had met the applicant ten month's ago and had started talking to him. On one day, her maternal uncle had seen her with the applicant. Thereafter her family members had forbidden her from seeing the applicant and she did not see the applicant after that. After some time she met the co-accused Golu and she started talking to him. She knows the co-accused Golu since August, 2022. On the date of the incident, when she was on the way to school, the co-accused forcibly took her on his motorcycle, he took her to an OYO hotel on IIM Road where the applicant was present since before. Both of them molested her but they could not make physical relations with her due to her resistance. She alleged that both of them prepared a video of the incident and threatened that they would spread the video virally.

5. In the statement of the victim recorded by the doctor, who had conducted her medico legal examination, she did not make any mention of the applicant and she levelled allegations against other co-accused person only. She mentioned the place of incident to be an unknown room. In the statement of the victim recorded by the Magistrate, she stated that the co-accused person had taken her to a triple storeyed house wherein no person was residing. She was taken to a room on the second floor of the house where the co-accused tried to commit the misdeed with her and the applicant started videographing the incident.

6. In the affidavit filed in support of the application, it has been stated that the applicant is 21 year's old innocent person having no criminal history.

7. Learned AGA-I has vehemently opposed the application and he has submitted that such kind of offences committed by young persons are harmful for the society and create adverse environment for the young girls in the society. He has submitted that the victim's brother and mother have also supported the incident in their statement recorded by the Investigating Officer.

8. The learned AGA has produced a copy of the relevant extract of the case diary for perusal of the Court, which indicates that victim's mother and brother have mentioned the place of incident to be dilapidated remains of a building.

9. Having considered the aforesaid facts and circumstances of the case and keeping in view the discrepancies in the version of the victim recorded under Section 161 Cr.P.C., she stated it to be a room in a OYO hotel, before doctor she stated the place to be an unknown room; before the Magistrate she stated the place to be a room on the second floor of a triple storeyed vacant building and the victim's brother and mother stated the place to be a dilapidated remains of a building; that the victim has not levelled any allegation against the applicant in her statement before the doctor and that the applicant is a 21 years old young man having no criminal history and without making any observations which may affect the outcome of the case, I am of the view that the aforesaid facts are sufficient for making out a case for granting anticipatory bail to the applicant.

10. In view of the above, the anticipatory bail application of the applicant is **allowed**. In the event of arrest/ appearance of applicant-**Nikhil Shukla** before the learned Trial Court in the aforesaid complaint case, he shall be released on anticipatory bail on his furnishing personal bond and two solvent sureties, each in the like amount, to the satisfaction of S.H.O./Court

concerned on the following conditions and subject to any other conditions that may be fixed by the Trial Court:

(i). That the applicant shall appear before the trial court on each date fixed, unless personal presence is exempted;

(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 pressurize/ intimidate the prosecution witness.

Order Date :- 10.10.2023

Pradeep/-