

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2231 of 2023

Applicant :- Ashok Kumar And Another

Opposite Party :- The State Of U.P. Thru. Prin. Secy. Home
And Another

Counsel for Applicant :- Dilip Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Dilip Kumar Pandey, the learned counsel for the applicant as well as Sri Jayant Singh Tomar, learned A.G.A.-I appearing on behalf of the State and perused the records.

2. The instant application has been filed by the applicant seeking anticipatory bail in F.I.R. bearing Case Crime No.76 of 2023, under Sections 419, 420, 323, 506 I.P.C., registered at Police Station-Jagatpur , District-Raibarelli.

3. The aforesaid case has been registered on the basis of a F.I.R. lodged on 18.03.2023 against the applicants, who are father and son, by a complain lodged by Sheelu wife of late Vijay Kumar, who is daughter-in-law of applicant no.1, stating that after death of her husband on 09.11.2022, the accused persons forcibly turned her and her minor children out of her matrimonial home. The names of the informant and her children were mutated in the revenue records in respect of property of her husband but the applicant no.1 fraudulently got his name recorded as guardian of the children and sold away the property to his own son-the applicant no.2.

3. Learned counsel for the applicant has submitted that name of applicant no.1 was recorded as guardian of the children in furtherance of an order dated 27.04.2022 passed by the Tehsildar, Uchahar, District- Raebarelli. However, he could not point out the provision of law under which the Tehsildar is authorized to appoint guardian of minor children. Apparently, the order passed by the Tehsildar is without jurisdiction. Counsel for the applicant has further submitted that the

applicant no.1 has lodged an F.I.R. No.180 of 2023 on 14.07.2023 alleging that the informant and two other persons had killed his son.

4. The son of the applicant no.1 died on 09.11.2022 and the applicant no.1 has lodge the FIR on 14.07.2023; apparently after the applicant no.1 had wrongfully got his name recorded as guardian of the informant's son and had sold away the property belonging to the minor children of the applicant to his own son-applicant no.2.

5. Without making any further observations, which may affect the merits of the case, I am of the view that aforesaid facts do not warrant exercise of discretion of this Court by granting pre-arrest bail to the applicant, therefore, the anticipatory bail application is ***rejected***.

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(Subhash Vidyarthi, J.)

Order Date :- 12.10.2023

-Amit K-