

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 2255 of 2023

Applicant :- Guddu Singh And Another

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

Counsel for Applicant :- Vijay Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Vijay Kumar, the learned counsel for the applicants as well as the learned Additional Government Advocate appearing on behalf of the State and perused the records.

2. The instant application has been filed by the applicants seeking anticipatory bail in F.I.R. bearing Case Crime No.383 of 2023, under Sections 354, 323, 504, 506, 376, 377 I.P.C., registered at Police Station Lonar, District Hardoi.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 04.09.2023 stating that the informant had got married to applicant No.2 about four years ago; that she has a son aged about two and a half years, who lives with the informant; that the accused persons used to beat her and being unable to tolerate the ill treatment, the informant has left her matrimonial home about one and a half years ago and since then, she is residing at her parents home. The informant had gone to her matrimonial home along with her father on 04.09.2023 and while she was taking out some cloths from a box, applicant No.1, who is her father-in-law, molested her and torn away her cloths. She further alleges that when she was taking out the cloths, applicant No.2 reached there, abused, beaten up and threatened to kill her.

4. In the statement of the informant recorded under Section 161 Cr.P.C. she alleged that applicant No.1 was alone in the house and he

raped her. She further alleged that she had been sodomized by applicant no.2.

5. In the affidavit filed in support of the anticipatory bail-application, it has been contended that the applicants are innocent, they have no criminal history and they have falsely been implicated in the present case because of a matrimonial dispute between applicant No.2 and the informant.

6. Applicant No.2 has filed an Original Suit No.1168 of 2022 in the court of Principal Judge, Family Court, Hardoi under Section 9 of the Hindu Marriage Act.

7. Learned A.G.A. has opposed the application but on the basis of instructions, he has submitted that the allegations are not supported by findings of the medico-legal examination report of the informant.

8. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the informant has alleged that she is residing at her parents home for the past one and a half years; that applicant No.1 had molested her and torn her cloths when she had gone to his house to bring some cloths, while her father was present in another room of same house; that the FIR alleges that applicant No.2 had also beaten and abused her but in the statement recorded under Section 161 Cr.P.C., she has alleged that the applicant No.1 was alone in the house and there was no other person and she alleged commission of rape by applicant No.1; that although the informant claims that the applicant No.1 was alone in the house, in the same breath she alleged commission of sodomy by applicant No.2 at the same time, and the allegations are not supported by findings of the medico legal examination report, coupled with the fact that the applicants have 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 applicants.

9. In view of the above, the anticipatory bail application of the applicants is **allowed**. In the event of arrest/ appearance of **applicants-** Guddu Singh and Dharam Singh before the learned Trial Court in the aforesaid case crime, they shall be released on anticipatory bail on their 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 applicants shall appear before the trial court on each date fixed, unless personal presence is exempted;

(ii). That the applicants 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 applicants shall not pressurize/ intimidate the prosecution witness;

.

(Subhash Vidyarthi, J.)

Order Date :- 18.10.2023
prateek