

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2291 of 2023

Applicant :- Sudhesh Dwivedi @ Sudhesh Kumar Dwivedi

Opposite Party :- State Of U.P. Thru. Prin. Sectt. Deptt. Lko
And 3 Others

Counsel for Applicant :- Sheikh Mohammad Ali

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Sheikh Mohammad Ali, the learned counsel for the applicant as well as Sri Anurag Verma, the learned Additional Government Advocate appearing on behalf of the State and Sri Manoj Kumar, Advocate who has put in appearance on behalf of the informant and filed his vakalatnama, which is taken on record.

2. The instant application has been filed by the applicant seeking anticipatory bail in F.I.R. bearing ST No.673 of 2022, Case Crime No.266 of 2022, under Sections 354, 506 I.P.C. and Section 7/8 of Protection of Children from Sexual Offences Act, registered at Police Station Payagpur, District Bahraich.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 18.07.2022 alleging that the applicant had molested the informant's daughter aged about 13 years at about 8.30 p.m. on 17.07.2023.

4. In the affidavit filed in support of the anticipatory bail-application it has been contended that the applicant is innocent, he has no criminal history and he has falsely been implicated in the present case because of a property dispute between the

parties in respect of which a Suit No.1663 of 2022 is pending in the Court of learned Civil Judge, Junior Division, Bahraich. He has further submitted that earlier also a similar complaint was made to the Superintendent of Police, Balrampur on 06.06.2022 by Smt. Gudiya wife of Vinod Dubey who is also the party to the suit. The Superintendent of Police had asked the S.H.O. to lodge a report in case the allegations are found correct but the allegations were not found to be correct and no F.I.R. was lodged and no application under Section 156 (3) Cr.P.C. was filed in that regard.

5. Learned A.G.A. on the basis of instructions has submitted that the applicant was involved in one case bearing Case Crime No.117of 2016, registered at Police Station Payagpur, District Bahraich, but after investigation final report has been submitted in the aforesaid case.

6. The learned counsel for the informant had opposed the bail application and he has submitted that the victim is a minor girl aged about 13 years and the allegations are serious in nature. He has further submitted that the non-bailable warrants were issued against the applicant.

7. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that a civil suit regarding property dispute is pending between the parties; that another party to the same suit had levelled similar allegations against the applicant and two other persons on 06.06.2022 but the allegations were found to be incorrect coupled with the fact that the applicant has no criminal history and the offences alleged carry a maximum punishment of imprisonment of seven years 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.

8. In view of the above, the anticipatory bail application of the applicant is **allowed**. In the event of arrest/ appearance of **applicant-Sudhesh Dwivedi @ Sudhesh Kumar Dwivedi** before the learned Trial Court in the aforesaid case crime, 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.

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(Subhash Vidyarthi, J.)

Order Date :- 18.10.2023

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