

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2300 of 2023

Applicant :- Mohammad Ali @ Fakir

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

Counsel for Applicant :- R.B.S. Rathaur

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri R.B.S. Rathaur, the learned counsel for the applicant as well as Sri Anant Pratap Singh, the learned Additional Government Advocate appearing on behalf of the State and Sri Ankit Singh, the learned counsel for the informant 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.0182 of 2023, under Sections 376 & 506 I.P.C., registered at Police Station Naseerabad, District Raebareli.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 23.05.2023 alleging that about 6-7 months ago, the informant had gone to a rice mill of the applicant for bringing paddy husk. The applicant had raped the informant in a room situated there. Thereafter the applicant repetitively raped her. The informant had prepared a video of the incident.

4. In the statement of the informant recorded under Section 161 Cr.P.C. she reiterated the FIR allegations. She further stated that thereafter she got married and went to Gujarat but when she returned from there the applicant again called her to his rice mill. The F.I.R. has been lodged thereafter. As per the

educational certificates the informant is major. The informant declined to undergo medico legal examination. In her statement recorded under Section 164 Cr.P.C. she stated that she had prepared a video of the incident about 6-7 months ago. The informant has also mentioned about the applicant's having been elected as Chairman in the election.

5. 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.

6. The learned A.G.A. as well as learned counsel for the informant have opposed the application and they have submitted that the nature of allegations levelled against the applicant are serious and the incident is recorded in a videograph.

7. Having considered the aforesaid facts and circumstances of the case and keeping in view the versions of the informant herself that she was having a videograph of the incident for the past about 6-7 months yet she repetitively continued to go to the applicant and make physical relations with him coupled with the fact that the applicant has 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.

8. In view of the above, the anticipatory bail application of the applicant is **allowed**. In the event of arrest/ appearance of **applicant-Mohammad Ali @ Fakir** 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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