

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2371 of 2023

Applicant :- Vinod Kumar And 2 Others

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home,
Govt. U.P. And Another

Counsel for Applicant :- Nripendra Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Nripendra Mishra, the learned counsel for the applicants as well as Smt. Parul Kant, the learned Additional Government Advocate 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.0175 of 2022, under Sections 323, 354 (Kha), 504 I.P.C. and Section 3 (2) (va) Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station Sonwa, District Shrawasti.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 01.10.2022 alleging that the applicants had entered the informant's house in abbreviated condition in the night of 14.07.2022 when her husband had gone to look after his crop in the fields. The F.I.R. alleges that the accused persons sexually assaulted the informant but upon hearing her cries her husband came back from the fields and he raised hue and cry. Upon seeing other persons approaching the spot the accused persons ran away.

4. In the statement of the informant recorded under Sections

161 and 164 Cr.P.C., she supported the F.I.R. allegations but from her statement commission of offence under Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 prima facie does not appear to be made out. The informant has not been examined medically.

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.

6. The learned A.G.A. has opposed the prayer for bail but he could not dispute the aforesaid aspects of the matter.

7. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the informant has stated that her husband was away at the fields at the time of incident; that three accused persons misbehaved with her and her husband reached home after hearing her cries; that prima facie offence under Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 does not appear to be made out; that the victim has not received injuries 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.

8. In view of the above, the anticipatory bail application of the applicants is **allowed**. In the event of arrest/ appearance of **applicants-Vinod Kumar, Radheshyam and Lalau** 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.

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(Subhash Vidyarthi, J.)

Order Date :- 19.10.2023
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