

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 2399 of 2023

Applicant :- Yogesh Alias Awdhesh And 2 Others

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt. And 3 Others

Counsel for Applicant :- Rama Kant Dixit

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Rama Kant Dixit, the learned counsel for the applicants as well as Sri Gyanendra Singh, learned A.G.A. 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. 49 of 2022, under Sections 452, 354(B), 506 I.P.C. and Section 9(g)/10 of Protection of Children from Sexual Offences Act, 2012, registered at Police Station Nanpara, District Bahraich.

3. The aforesaid case has been registered on the basis of a complaint lodged on 27.04.2022 alleging that when the informant's daughter aged about 16 years was alone, the accused persons had sexually assaulted her.

4. In the affidavit filed in support of the anticipatory bail application it has been contended that the applicants are innocent and they have falsely been implicated in the present case. It has further been stated that the informant's wife had lodged an F.I.R No. 355 of 2020 under Section 323, 504, 506 I.P.C, registered at Police Station Nanpara, District Bahraich.

5. The learned counsel for the applicants made a statement at bar that a final report has been submitted in the aforesaid 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 there appears to be an old animosity between the parties due to which an F.I.R was lodged by the informant's wife against the applicants on an earlier occasion and the allegations levelled there in could not be established; that the offences alleged carry a maximum punishment of imprisonment for 7 years and that besides the aforesaid F.I.R lodged by the informant's wife herself there is no criminal history of the applicant 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- **Yogesh Alias Awdhesh, Abdul Naseem Ahmad and Jugnu** 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;

(Subhash Vidyarthi, J.)

Order Date :- 28.10.2023
Preeti.