

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2340 of 2023

Applicant :- Abdul Malik Alisa Mahtab

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home,
Lucknow

Counsel for Applicant :- Bharat Kumar Dixit

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Bharat Kumar Dixit, the learned counsel for the applicant as well as Sri Arpit Kumar, 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.922 of 2019, under Sections 323, 506, 376 I.P.C., registered at Police Station - Kotwali Nagar, District - Raebareli.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 27.11.2019 against the applicant, his brother and father, stating that the informant got married to the applicant's brother - co-accused Abdul alisa Aftab; that she had gone to her matrimonial home from the Family Court on 14.09.2019 that all the accused persons used to harass her. The FIR alleges that commission of rape by the applicant but neither any date of incident has been mentioned in the FIR nor is the allegation supported by medico legal examination report.

4. Earlier the applicant had filed Writ Petition No.34874 (MB) of 2019 and his arrest was stayed till filling of chargesheet by

means of an order dated 16.12.2019. Chargesheet has been submitted on 06.04.2020 and the applicant has approached this Court after receiving summons from the trial court.

5. In the affidavit filed in support of the anticipatory bail-application, it has been stated 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. 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 from the allegation, it appears that there is a matrimonial dispute between the informant and the applicant's brother-co-accused Abdul alisa Aftab; that the allegations levelled against the applicant are not supported by the medico legal examination report of the victim; that the applicant's arrest had previously been stayed by a Division Bench of this Court; 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-Abdul Malik Alisa Mahtab** 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;

Order Date :- 19.10.2023

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