

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 2452 of 2023

Applicant :- Anchal Thru. Her Natural Guardian Munna Lal

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

Counsel for Applicant :- Santosh Kr. Yadav Warsi, Arjun Singh Yadav, Rama Nand Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Santosh Kr. Yadav Warsi, learned counsel for the applicants as well as Sri. Rakesh Kumar Singh, the learned A.G.A. for the State and perused the record.

2. The instant application has been moved by the accused-applicant- Anchal, in Case Crime No. 0526 of 2022, under Sections 147, 148, 149, 323, 327, 352, 504, 506 I.P.C. and Section 7 C.L.A. Act, Police Station Colonelganj, District Gonda, with the prayer to enlarge her on anticipatory bail, as she is apprehending arrest in the above-mentioned case.

3. Learned counsel for the applicant while pressing the anticipatory bail application submits that the F.I.R. of this case has been lodged with ulterior motive in order to falsely implicate the applicant while no incident as claimed by the informant had happened and contrary to the allegations as levelled in the F.I.R., it is the informant's party which has assaulted the applicant wherein the applicant, co-accused persons Munnal Lal, Rajkumari and other co-accused person Suraj had sustained injuries, pertaining to which, the applicant had approached the concerned Magistrate for lodging of an F.I.R. by moving an application under Section 156 (3) Cr.P.C., as the police in connivance with the informant's party did not register the first information report on the basis of an application moved by the applicants.

4. It is further submitted that the falseness of the story as cooked up by the prosecution could also be gathered from the fact that no person from the side of

the informant has sustained injuries and even if the allegations of the F.I.R. are believed on its face, the case of only violating some order of a Civil Court would emerge and having regard to the fact that vide order dated 13.04.2016 the order of only status quo was passed and it was not established as to which party is in possession of the disputed property, even the violation of any Court's order could not be established and even if it is said to have been committed by the applicants' party the remedy lies in moving an application under Order 39 Rule 2-a of the C.P.C. and the criminal jurisdiction could not be invoked.

5. It is also submitted that pertaining to the same incident the police has also registered a case against the applicant bearing Case Crime No. 527 of 2022. The applicant from before the happening of the alleged incident were not having any criminal history and they are ready to co-operate in the investigation and undertakes that she will remain present before the investigating officer as and when required and would not indulge themselves in any criminal activity. Thus, protection from arrest may be granted to the instant applicants.

6. Learned counsel for the applicant has also submitted that the co-accused persons, namely, Munnal Lal, Rajkumari, Reshma and Phoolmati, have been granted anticipatory bail by this Court vide order dated 07.08.2023 passed in Criminal Misc. Anticipatory Bail Application (U/S 438 Cr.P.C.) No.390 of 2023.

7. Learned A.G.A. on the other hand submits that the applicant has not only violated the Court's order but also have assaulted the informant's party and, therefore, she is not entitled for any discretion.

8. Having heard learned counsel for the parties and having perused the record, it is evident that the allegations of assaulting the informant's party and of violating the order of the Civil Court dated 13.04.2016 has been alleged in the F.I.R. as well as in the statement of the prosecution witnesses. However, no medical examination report pertaining to any person injured from the side of the informant has been collected by the investigating officer, while in the F.I.R., it is stated that some persons, who were assaulted, had sustained injuries. Per contra, learned counsel for the applicant has drawn the attention of this Court towards the fact that many persons from the side of the applicant (accused persons) had

sustained injuries and that it is the applicant's party which was assaulted by the informant's party and that four co-accused persons have already been granted anticipatory bail, I am of the view that the applicant is also entitled to be granted anticipatory bail in the matter.

9. In view of the above, the anticipatory bail application of the applicant is **allowed**. In the event of arrest/ appearance of applicant- **Anchal** before the learned Trial Court in the aforesaid complaint case, 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 :- 2.11.2023
Preeti.