

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2412 of 2023

Applicant :- Mahendra Tiwari @ Mahendra Kumar Tiwari
Opposite Party :- State Of U.P Thru. Prin. Secy. Home Civil
Secrt. Lko. And 3 Others
Counsel for Applicant :- Shanker Lal Pandey
Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Ram Chandra Singh, the learned counsel for the applicant, Sri Anant Pratap Singh, the learned AGA for the State and perused the records.
2. The instant application has been filed by the applicants seeking anticipatory bail in Sessions Trial No. 654 of 2020 arising out of Case Crime No. 271 of 2019, under Sections 354-A IPC & Section 7/8 POCSO Act, Police Station Kandhai, District Pratapgarh.
3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 07.11.2019 stating that while the informant's younger sister aged about 13 years, who is not in a sound mental state, was alone in the house, the applicant came to her house, shown an obscene video on his mobile and raped her. When the informant and her mother returned home, the victim told them about the incident.
4. In the statement of the victim recorded under Section 161 Cr.P.C., she did not level the allegation of rape, she merely stated that some wrong thing was shown to her in the mobile.
5. In the affidavit filed in support of the application it has been stated that the applicant is innocent and he has been falsely 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 incident is alleged to have taken on 13.09.2019 and the victim allegedly told about the incident to the informant and her mother on the same day, yet the FIR was lodged on 07.11.2019; that the victim has not

alleged commission of rape in her statement and the allegations are not supported by the findings of the medico legal examination report of the victim 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 during pendency of the trial.

8. In view of the above, the anticipatory bail application of the applicants is **allowed**. In the event of arrest/ appearance of applicant-**Mahendra Tiwari @ Mahendra Kumar Tiwari** before the learned Trial Court in the aforesaid case crime, he shall be released on anticipatory bail during pendency of the trial 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 :- 30.10.2023

Pradeep/-