

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 2530 of 2023

Applicant :- Devendra Kumar @ Devendra Kumar Awasthi

Opposite Party :- State Of U.P Thru. Prin. Secy. Home Deptt. Sectr. Govt. Lko.
And Another

Counsel for Applicant :- Prashant Singh,Rahul Kumar Shukla,Shivam Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Rahul Kumar Shukla, the learned counsel for the applicant as well as Sri Manish Kumar Pandey, 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.0068 of 2023, under Sections 147, 323, 376, 342, 452 I.P.C., registered at Police Station Gurubuxganj, District Raebareli.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 04.02.2023 against the applicant, his father, mother, sister and wife alleging that the applicant had raped the informant, who is wife of the applicant's younger brother on 05.11.2022.

4. In the affidavit filed in support of the anticipatory bail-application, it has been contended that the applicant is innocent, he has no criminal history and he has falsely been implicated in the present case for the reason that earlier the applicant had filed an FIR no.677 of 2022 against the informant and two other persons alleging that the informant, his brother and two other persons had beaten up the applicant's mother.

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

6. Having considered the aforesaid facts and circumstances of the case

and keeping in view the fact that prima facie it appears that there is a dispute amongst the family members due to which an FIR was lodged against the informant and her brother on previous occasion; that the incident in question is alleged to have taken place on 05.11.2022 and the FIR has been lodged on 04.02.2023; that the allegations are not supported by medico legal examination coupled with the fact 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.

7. In view of the above, the anticipatory bail application of the applicant is **allowed**. In the event of arrest/ appearance of **applicant- Devendra Kumar @ Devendra Kumar Awasthi** 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 :- 7.11.2023
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