

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2619 of 2023

Applicant :- Tajammul And 2 Others

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

Counsel for Applicant :- Sandeep Singh

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Sandeep Singh, the learned counsel for the applicants as well as Smt. Parul Kant, the learned Additional Government Advocate appearing on behalf of the State and perused the records.

2. This second application has been filed by the applicants seeking anticipatory bail in F.I.R. bearing Case Crime No.406 of 2013, under Sections 376, 363, 366, 323, 506 I.P.C. & Section 3/4 POCSO Act, registered at Police Station Kaiserganj, District Bahraich. The first anticipatory bail application bearing no.1826 of 2023 has been rejecting by this court by means of an order dated 21.08.2023 upon an objection being raised that the applicants had approached this court directly without his first filing anticipatory bail before the learned sessions court. The applicant has approached this court again after rejection of his application for anticipatory bail by the learned sessions Court.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 07.06.2013 against four persons, including the applicant, alleging that the co-accused Bhanni son of Ramzan had enticed away the informant's daughter on 01.06.2013. It is alleged that the applicants had assisted the said co-accused person in the commission of offence.

4. In the affidavit filed in support of the anticipatory bail-application it has been contended that the applicants are innocent, they have no criminal history and they have falsely been implicated in the present case. It has further been stated that the victim has married the co-accused Bhanni @ Masiuddin on 12.05.2013 and they are living together as husband and wife. The statement of the victim has been recorded by learned trial court on 20.02.2023 and she has been declared to be hostile.

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 coupled with the fact that the applicants have 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 applicants.

7. In view of the above, the anticipatory bail application of the applicant is **allowed**. In the event of arrest/ appearance of **applicants-Tajammul, Haseeb and Saimu** before the learned Trial Court in the aforesaid case crime, he shall be released on anticipatory bail on their 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 applicants shall appear before the trial court on each date fixed, unless personal presence is exempted;

(ii). That the applicants 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 applicants shall not pressurize/ intimidate the prosecution witness.

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(Subhash Vidyarthi, J.)

Order Date :- 9.11.2023
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