

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 2620 of 2023

Applicant :- Riyaz

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

Counsel for Applicant :- Manoj Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Manoj Kumar Singh, the learned counsel for the applicant, Sri Jayant Singh Tomar, the learned Additional Government Advocate-I appearing on behalf of the State, Sri Shailendra Pathak, the learned counsel for the informant 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. 423 of 2023, under Sections 376D, 506 IPC, Police Station Risiya, District Bahraich.
3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 27.09.2023 against the applicant and an unknown person, alleging that when the informant's daughter aged about 16 years was going to call him from his field at about 07.00 pm on 17.09.2023, the accused persons dragged her in a field and started committing the misdeed against her. Upon hearing hue and cry raised by her daughter, the informant reached on the spot and several other persons had also reached there.
4. In the statement of the victim recorded under Section 161 Cr.P.C., she alleged molestation by the accused persons but she did not allege commission of rape. She also did not tell that she had raised hue and cry and upon hearing that, the informant had came running to the spot.
5. Before the doctor, the victim stated that the accused persons had committed the misdeed against her and in this statement also, she did not allege that she had raised a hue and cry, upon hearing which the informant came there; rather she stated that her father came there on his own.
6. In the medico legal examination report of the victim, no injury has been found on any part of her body.
7. In the statement of the victim recorded under Section 164 Cr.P.C., she alleged commission of rape by the accused person and that after committing an offence the accused persons had ran away.

8. In the affidavit filed in support of the application it has been contended that the applicant is innocent and has falsely been implicated in the present case. The applicant's involvement in another case bearing Case Crime No. 1221 of 2017, under Section 376D IPC & Section 3(2)(v) SC/ST Act, Police Station Risiya, District Bahraich has been disclosed in para 23 of the affidavit, in which the Investigating Officer had submitted a final report but upon a protest the applicant had been summoned and he has been granted bail.

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

10. Having considered the aforesaid facts and circumstances of the case and keeping in view the aforesaid material discrepancies in the version of the incident in various statements of the victim recorded at different states, I am of the view that the aforesaid facts are sufficient for making out a case for granting anticipatory bail to the applicant during pendency of the trial.

11. In view of the above, the anticipatory bail application of the applicant is **allowed**. In the event of arrest/ appearance of applicant-**Riyaz** 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 :- 9.11.2023

Pradeep/-