

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2677 of 2023

Applicant :- Anjani Devi

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

Counsel for Applicant :- Gaurav Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Gaurav Shukla, the learned counsel for the applicant, Sri Anurag Verma, the learned AGA-I for the State, Sri Rajnish Tiwari, the learned counsel for the informant and perused the records.
2. The instant application has been filed by the applicants seeking anticipatory bail in F.I.R. bearing Case Crime No. 291/2023, under Sections 323, 504, 308 IPC, Police Station Hargaon, District Sitapur.
3. At the outset, the learned AGA-I and the learned counsel for the informant have raised an objection that the applicant has filed Criminal Misc. Writ Petition No. 7471 of 2023 challenging validity of the FIR and he has prayed for an interim relief for stay of his arrest in that writ petition. The aforesaid writ petition is pending consideration of a Division Bench of this Court. The instant application seeking anticipatory bail has been filed during pendency of the application for stay of arrest of the petitioner before a Division Bench.
4. Replying to the aforesaid preliminary objection, the learned counsel for the applicant has submitted that the aforesaid writ petition has been filed for quashing of the FIR and the present application has been filed for grant of anticipatory bail and scope of both the proceedings is different and pendency of a writ petition seeking quashing of the FIR would not bar the applicant from seeking anticipatory bail.
5. Although the learned counsel for the applicant is correct in making the submission that the scope of a writ petition seeking quashing of the FIR is entirely different from the scope of an application for anticipatory bail but the interim relief prayed by the applicant in the writ petition is regarding stay of his arrest. The relief prayed in the present application is that in case of his

arrest, he be released on bail and be not taken into custody. In effect, the scope of the interim relief prayed in the pending writ petition and of the instant application for anticipatory bail, is the same. When an application seeking stay of arrest of the applicant is pending consideration of a Division Bench, it would not be proper for this Court to entertain an application for anticipatory bail of the applicant.

6. The application is accordingly ***rejected*** in limine for the aforesaid reason.

Order Date :- 22.11.2023

Pradeep/-