

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2905 of 2023

Applicant :- Nandu @ Nandu Yadav And Another

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

Counsel for Applicant :- Mulayam Singh Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Mulayam Singh Yadav, the learned counsel for the applicants as well as Ms. Charu Singh, learned A.G.A. appearing on behalf of the State and perused the records.

2. This is a second anticipatory bail application filed by the applicants seeking anticipatory bail in F.I.R. bearing Case Crime No. 260 of 2021, under Sections 376-D, 323, 325 I.P.C., registered at Police Station Risia, District Bahraich. The first anticipatory bail application was rejected by means of an order dated 03.08.2022.

3. The second anticipatory bail application has been filed on the ground that subsequent to rejection of the applicants anticipatory bail application, two co-accused persons Nitish Yadav and Dhillar Yadav were granted anticipatory bail by means of an order dated 06.08.2022 and their application has been finally allowed by means of an order dated 14.07.2023 as no counter affidavit was filed either by the State or by the informant.

4. The aforesaid case has been rejected on the basis of F.I.R. lodged on 08.10.2021 alleging that all the four accused persons had molested the informant and tried to rape her and when her bother-in-law tried to save her he was assaulted with sticks and

sharp edge weapon.

5. None of the allegations were reported by the medico legal examination report.

6. In the statement of the victim recorded under Section 161 Cr.P.C., she alleged commission of rape but this allegation also could not be supported by the findings of the medico legal examination report. The victim had stated that her brother-in-law was walking some distance ahead of her at the time of the incident and he tried to intervene and yet all the accused persons raped her and neither the informant nor the brother-in-law received any injuries in the incident.

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

8. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that both the other co-accused persons have already been granted anticipatory bail in the present case and without making any observations which may affect the outcome of the case, I am of the view that the applicants are also entitled to be granted anticipatory bail in the present case.

9. In view of the above, the anticipatory bail application of the applicants is **allowed**. In the event of arrest/ appearance of applicants- **Nandu @ Nandu Yadav and Mahipal alias Mahiwal Yadav alias Babu** 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 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;

(Subhash Vidyarthi, J.)

Order Date :- 16.12.2023

Preeti.