

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 2881 of 2023

Applicant :- Dinesh Patel @ Dinesh Kumar Patel

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

Counsel for Applicant :- Mohd. Taufiq Siddiqui

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Mohd. Taufiq Siddiqui, the learned counsel for the applicant as well as Smt. Poonam Gupta, 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 FIR/Case Crime No.84 of 2022, under Sections 376-D, 323, 504, 506 I.P.C. and Section 5g/6 of Protection of Children from Sexual Offences Act, registered at Police Station Mandhata, District Pratapgarh.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 30.03.2022 against Umesh Patel alleging that the named accused person had enticed away the informant's 16 years old daughter on 27.03.2022, committed the misdeed against her during the entire night and dropped her back in the village at 12.00 noon on 28.03.2022.

4. In the statement of the victim recorded under Section 161 Cr.P.C. she stated that the applicant was also involved in commission of offence with the named accused person as he had taken her on his motorcycle.

5. In her statement recorded under Section 164 Cr.P.C. she has stated that the applicant and the named accused live in a house opposite her house. They had taken her away on a motorcycle to a jungle where the co-accused person raped her. She further

stated that the applicant is related to her as her uncle. The victim also stated that after her return to the applicant's house the applicant had beaten her as also the named accused Umesh with sticks.

6. In her statement recorded under Section 161 Cr.P.C. the victim did not level any allegation against the applicant and she levelled allegations against the named accused Umesh only. The applicant had earlier filed Criminal Misc Writ Petition No.5778 of 2022 and his arrest was stayed by an interim order dated 11.08.2022. After submission of a charge sheet the applicant filed an application under Section 482 Cr.P.C. No.2750 of 2023 which was disposed of by means of an order dated 24.03.2023 by observing that in case the applicant appears and files any bail the same shall be considered and decided expeditiously in accordance with law.

7. 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.

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

9. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the victim is alleged to have been taken away on 27.03.2022, she returned at 12.00 noon on 28.03.2022 and allegedly narrated the incident to her father (the informant) yet the F.I.R. has been lodged on 30.03.2022 and there is no explanation for the delay in lodging the F.I.R.; that the applicant is not named as accused in the F.I.R. lodged two days after return of the victim; that the victim has stated that the applicant is related to her as her uncle and

she has not levelled allegation of rape against the applicant; that the informant has not levelled any allegation against the applicant coupled with the fact that the applicant is a 29 years old person having 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.

10. In view of the above, the anticipatory bail application of the applicant is **allowed**. In the event of arrest/ appearance of **applicant-Dinesh Patel @ Dinesh Kumar Patel** 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.

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(Subhash Vidyarthi, J.)

Order Date :- 14.12.2023

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