

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2866 of 2023

Applicant :- Abdul Hannan

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

Counsel for Applicant :- Dinesh Kr. Chaudhary, Anand Mani
Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Anand Mani Tripathi, the learned counsel for the applicant as well as Sri Rakesh Kumar Singh, 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 Case Crime No. 255 of 2023, under Sections 420, 467, 468, 471, 120-B IPC, Police Station Kotwali Nagar, District Balrampur.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 30.07.2023 in furtherance of an application under Section 156(3) Cr.P.C. against six persons, including the applicant, by the informant, claiming herself to be widow of the applicant's younger brother, alleging that she used to live at Hyderabad with her husband and the accused persons had also gone to Hyderabad and had stayed in an adjacent house to take care of the informant's husband during his terminal ailment. However, after death of the informant's husband, the accused persons got his property on the basis of fake documents. Some other allegations have been levelled against the co-accused persons regarding commission of rape and preparation of obscene video but apparently no evidence of obscene video has been produced along with the complaint.

4. In the affidavit filed in support of the application it has been stated that the applicant is innocent and he has falsely been implicated in the present case because of the property dispute between the parties. A copy of a civil suit No. 31 of 2022 pending in the Court of Principal Senior Civil Judge R.R. District At LB Nagar, Telangana has been annexed with the affidavit. The applicant's involvement in two other cases has been disclosed in para 6 of the affidavit, in first of which the

investigating Officer has submitted final report and in other case the applicant has not been summoned till date.

5. The learned AGA has opposed the anticipatory bail application and on the basis of instructions he has submitted that it has come to light that the applicant had used a fake certificate of Gram Pradhan for getting the entries in family register altered.

6. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that in the FIR registered in furtherance of an application under Section 156(3) Cr.P.C., neither the time when the informant's husband got ill, nor the period during which the accused person stood at Hyderabad nor the date of his death has been mentioned; although it is alleged that the complainant was raped and the incident was videographed, there is neither any medical examination to support the evidence nor there is any evidence of preparation of video; the allegation of rape has not been levelled against the applicant; a civil dispute between the parties is already pending 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 during pendency of the trial.

7. In view of the above, the anticipatory bail application of the applicant is **allowed**. In the event of arrest/ appearance of applicant-**Abdul Hannan** 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 :- 14.12.2023

Pradeep/-