

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2907 of 2023

Applicant :- Satan Kumar And Anr.

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

Counsel for Applicant :- Angrej Nath Shukla,Kamal Bahadur
Singh

Counsel for Opposite Party :- G.A.,Ram Phal Rawat

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Angrej Nath Shukla, the learned counsel for the applicants, Ms. Charu Singh, learned A.G.A. appearing on behalf of the State as well as Sri Ram Phal Rawat, the learned counsel for the complainant and perused the records.

2. The instant application has been filed by the applicants seeking anticipatory bail in Complaint Case No. 74 of 2017, under Sections 376, 323, 504, 506 I.P.C. and Section 3(1) (da) (dha) and 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station Jankipuram, District Lucknow.

3.The aforesaid case has been registered on the basis of a complaint filed on 16.06.2017 alleging that on 29.01.2016, applicants forcibly entered the complainant's house, abused her with castist words and raped her and they threatened her also.

4. In her statement recorded under Section 200 and 202 Cr.P.C, complainant had supported the complaint allegations.

5. In the affidavit filed in support of the anticipatory bail application it has been contended that the applicants are innocent, they have falsely been implicated in the present case and they have no criminal history.

6. It has further been stated in the affidavit that the applicant no. 1 had filed an F.I.R no. 269 of 2015 against the complainant alleging that the complainant, who is a practicing Advocate, had taken possession of the house of the applicant no. 1 on the basis of fake documents. The complainant had filed suit no. 1569 of 2014 regarding her rights in respect of the house in question, it was dismissed by means of judgment and decree dated 24.04.2018 passed by the Additional Civil Judge (Senior Division), Court No. 23, Lucknow. Regular Civil Appeal no 122 of 2018 filed against the aforesaid decree, was also dismissed by means of a judgment and order dated 19.01.2021.

7. The complainant had filed an application under Section 156(3) Cr.P.C bearing Miscellaneous Case No. 410 of 2016 on similar sets of allegations and the said application was rejected by means of an order dated 06.07.2016 passed by the Additional Judicial Magistrate, Court No. 29, Lucknow. Criminal Revision No. 356 of 2016 filed against the aforesaid order was also dismissed by means of an order dated 03.08.2016 passed by the Session Judge, Lucknow. After rejection of the application under Section 156 (3) Cr.P.C and dismissal of revision against it, the complainant has filed the instant complaint.

8. The learned counsel for the informant opposed the anticipatory bail application stating that there are allegations of commission of offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and , therefore, the application is not maintainable in view of the previous content in Section 18 of the Act.

9. The allegations levelled in the complaint are that the applicants forcibly entered the complainant's house, abused and raped her. The offence has allegedly been committed inside the complainant's house and in presence of no other person. There

is no witness of the incident and the other allegations are not supported by the medico legal examination report of the complainant.

10. In view of the aforesaid fact, commission of offence under Section Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, is prima facie not established against the complainant and, therefore, in such circumstances, the application for anticipatory bail is maintainable in view of the law laid down by the Hon'ble Supreme Court in **Prathvi Raj Chauhan Vs. Union of India**, (2020) 4 SCC 727.

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

12. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the complainant is an advocate and the applicants had filed an F.I.R alleging that she had illegally taken possession of the applicants immovable property; that the suit filed by the complainant in respect of the property in question was dismissed and the appeal filed by her against the order of dismissal of suit was also dismissed. An application under section 156(3) Cr.P.C. filed by the applicants on the same set of allegations, was dismissed and the revision filed against her was also dismissed. The allegations are not supported by any other material, except for the statement of the applicants and that the applicants have no previous criminal history, I am of the view that the aforesaid facts are sufficient for making out a case for granting anticipatory bail to the applicants.

13. In view of the above, the anticipatory bail application of the applicants is **allowed**. In the event of arrest/ appearance of applicants- **Satan Kumar and Santosh @ Kishan Lal Gupta**

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;

(Subhash Vidyarthi, J.)

Order Date :- 16.12.2023/Preeti.