

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION
U/S 438 Cr.P.C. No. - 2982 of 2023

Applicant :- Mohd. Saheem Khan And Another

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

Counsel for Applicant :- Naved Ali

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Naved Ali, the learned counsel for the applicants as well as Sri Gyanendra Kumar, the learned Additional Government Advocate appearing on behalf of the State 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.323 of 2023, under Sections 364, 504, 506 I.P.C., registered at Police Station Haidergarh, District Barabanki.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 23.08.2023 against the applicants and their sister alleging that the informant had got married to Abdul Hamid, uncle of the applicants about 10 years ago, she has 3 children, aged 7 years, 5 years and 2 years; her husband died about 2 years ago and that the applicants did not permit her to enter into her matrimonial home stating that her husband had died and she has no right in her matrimonial home. She further alleged that about 2 months ago, the accused persons had forcibly taken away her 3 children.

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

5. It has further been stated that the informant has entered into relationship with some person, she has abandoned her children and there was nobody to take care of them and, therefore, the applicants had provided shelter to them in their house and on 31.07.2023, they have filed a Original suit No.128 of 2023 in the court of Principal Judge, Family Court, Raebareli under Section 8 of Guardian and Wards Act against the informant. Summons were issued to the informant on 31.07.2023 itself. The FIR has been lodged on false allegations after the informant acquired knowledge of the suit.

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

7. Having considered the aforesaid facts and circumstances of the case 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 applicants.

8. In view of the above, the anticipatory bail application of the applicants is **allowed**. In the event of arrest/ appearance of **applicant**-Mohd. Saheem Khan & Mohd Shamim before the learned Trial Court in the aforesaid case crime, they shall be released on anticipatory bail on their 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 :- 20.12.2023
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