

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2986 of 2023

Applicant :- Sameer Ahamad

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

Counsel for Applicant :- Manoj Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Manoj Kumar Singh, the learned counsel for the applicant as well as Smt. Poonam Gupta, the learned Additional Government Advocate appearing on behalf of the State and Sri Ashok Kumar Shukla, Advocate who has put in appearance on behalf of the informant's wife and filed his vakalatnama, which is taken on record.

2. The instant application has been filed by the applicant seeking anticipatory bail in Special Sessions Trial No.793 of 2020, F.I.R. bearing Case Crime No.280 of 2020, under Sections 363, 366, 376 I.P.C. and Section 3/4 of Prevention of Children from Sexual Offences Act, registered at Police Station Kaiserganj, District Bahraich.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 05.06.2020 against five persons including the applicant alleging that the informant's daughter is of low intellect (mand buddhi) and the applicant had enticed her away and the other co-accused persons had assisted in commission of the offence.

4. In the statement of the victim recorded under Section 161 Cr.P.C. she stated that she had gone with the applicant out of

her own freewill and the applicant did not commit any wrong. She further stated that the other co-accused persons have also been implicated falsely.

5. In the medico legal examination report of the victim no finding has been recorded regarding the allegation that she is a person of low intellect. The victim stated before the doctor that she had gone with the applicant out of her own freewill. No sign of use of force was found during medico legal examination of the victim. As per the medico legal examination report the victim's age was about 19 years at the time of her examination. In the statement of the victim recorded under Section 164 Cr.P.C. she categorically stated that her father had falsely alleged that she is a person of low intellect. She stated that she is aged about 20 years, she has studied up to Class-6, she has knows the applicant since childhood and she likes him. Her family members wanted to get her married elsewhere and for this reason she had persuaded the applicant to take her away and she did not allege any misdeed having been committed by the applicant.

6. The applicant claims the victim's date of birth to be 01.01.2000 on the basis of progress result card of Class-6 which is issued by Nehru Bal Shiksha Niketan and Junior High School, Kaiserganj, Bahraich for the session 2013-14, whereas the informant claims her date of birth to be 20.05.2003 on the strength of a mark sheet of Class-8 for the year 2016. The victim claims that she studied up to Class-6 and she has not studied in Class-8.

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 applicant has 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-Sameer Ahamad** 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 :- 20.12.2023
Ram.