

Court No. - 11

Case :- CRIMINAL MISC. ANTICIPATORY BAIL
APPLICATION U/S 482 BNSS No. - 229 of 2024

Applicant :- Sarvesh Kumar

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt.
Lko. And 2 Others

Counsel for Applicant :- Mrs.Suniti Sachan,Gangeshwar
Pandey,Sidhant Rathour

Counsel for Opposite Party :- G.A.

Hon'ble Rajesh Singh Chauhan,J.

1. Supplementary affidavit filed by learned counsel for the applicant and Vakalatnama filed by Shri Girijesh Kumar Chauhan and Shri Pankaj Kumar Verma, Advocate on behalf of the prosecutrix/ complainant are taken on record.
2. Heard Ms. Suniti Sachan, learned counsel for the applicant, Shri Bhanu Pratap Singh, learned AGA for State-respondents and Shri Pankaj Kumar Verma, learned counsel for the prosecutrix/ complainant.
3. The present applicant is apprehending arrest in Case Crime No.352 of 2024 under Sections 64(1), 352, 351(2) BNS, police station Jankipuram, District Lucknow.
4. Learned counsel for the applicant states that he has been falsely implicated in the aforesaid case as he has not committed any offence as alleged. She has further submitted that even if the prosecution story is considered on its face value, the alleged offence in question had taken place in the year 2017 when the prosecutrix was aged about 14-15 years, then as to why no prompt FIR was lodged as the reason whereof has not been explained in the FIR.

5. Ms. Sachan has further submitted that even if the statement of the prosecutrix under Section 183 B.N.S. is considered on its face value, she told her plight to her mother in the month of February, 2024, but no FIR has been lodged in the month of February, 2024 also.

6. Learned counsel for the applicant has lastly submitted that the applicant is ready to co-operate in the investigation as investigation is going on and since he is having his permanent address, therefore, there is no flight risk.

7. Learned AGA has opposed the aforesaid application by submitting that since the investigation is going on, wherein the custodial interrogation of present applicant may be required, therefore, this anticipatory bail application may be rejected. He has further submitted that in view of the facts and circumstances of the present case, *prima facie*, it appears that this is not a case of false implication subject to outcome of investigation inasmuch as the statements of prosecutrix recorded under Sections 180, 183 BNS are consistent.

8. Shri Pankaj Kumar Verma, learned counsel for prosecutrix/complainant has also opposed the aforesaid application by submitting that this is a case where the present applicant by misusing his relation with the family members of the prosecutrix has exploited her for couple of years and on account of social shame, the prosecutrix could not intimate her grievance promptly to her family members. Though she informed her mother in the month of February, 2024, but she also did not lodge FIR promptly, and this fact may be verified during investigation and thereafter during the course of trial, but this is not a case of false implication, therefore, this anticipatory bail application may be rejected.

9. Be that as it may, though this is a case where prompt FIR has not been lodged but the prosecution story is intact from the stage of FIR till recording of statement by the prosecutrix under Sections 180, 183 BNS, therefore, I do not find it proper to grant anticipatory bail to the present applicant. Since the present applicant is a government servant having his permanent address, therefore, he may take all pleas and grounds by appearing/ surrendering before the learned trial Court, by filing his regular bail application and in view of the various dictums of the Apex Court where the Apex Court has observed that the arrest of any person is not warranted in each and every case, if the Court has satisfied that the accused person will co-operate in the investigation and will not misuse the liberty, any appropriate order may be passed by learned trial Court while disposing of such bail application. The present applicant may surrender and file his regular bail application before the Court concerned within a period of four weeks and if such application is filed, the same shall be considered and disposed of with expedition without giving any unnecessary adjournments to any of the parties.

10. The anticipatory bail application is, accordingly, **disposed of.**

(Rajesh Singh Chauhan, J.)

Order Date :- 18.12.2024

Arnima