

Zeeshan And Another vs State Of U.P. And 3 Others on 31 January, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:14687

Court No. - 82

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 8387 of 2024

Applicant :- Zeeshan And Another

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Deepanshu Shrivastava, Sunil Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. Heard learned counsel for the applicants, learned A.G.A. for the State and perused the material available on record. Notice was sent to the opposite party no. 2-informant of this case but no one is present on behalf of opposite party no. 2.
2. This application for anticipatory bail has been filed by applicants -Zeeshan and Shoaib in connection with Case Crime No. 402 of 2022, under Sections 452, 323, 354, 354Kha, 504, 506 IPC and Section 7/8 and 11/12 POCSO Act, Police Station Gagalhedi, District Saharanpur.
3. It is alleged that the present applicants alongwith other co-accused came to the house of the victim and tried to outrage her modesty. However, in her statement recorded under Section 164 Cr.P.C., the minor victim has assigned a specific role to outrage her modesty to the co-accused Shahbaz and it has been stated by her that present applicants Shoaib and Zeeshan had only assaulted her parents, who were present over there. No further allegation has been made against the present

applicants. In the medical report of the victim, simple injuries have been found.

4. It is submitted by the learned counsel for the applicants that the applicants are innocent and they have apprehension of their arrest in the above-mentioned case, whereas there is no credible evidence against them. They have been falsely implicated into this matter. Allegations levelled against the applicants are false. After the investigation, charge-sheet was filed in the matter. It is further submitted that the applicants have been cooperative during the course of investigation. It is further submitted that earlier, interim protection was granted to the applicants in this case vide orders dated 25.08.2023 and 16.08.2023 respectively and the said liberty was not misused by the applicants. The applicants have no criminal history to their credit. No process under Sections 82 and 83 CrPC has been issued against the appellants and the appellants have not been declared absconder. It is further submitted that no custodial interrogation is required in this matter. In case the appellants are granted anticipatory bail, they will not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. opposed the anticipatory bail application.

6. In *Sushila Aggarwal and others vs. State (NCT of Delhi) and another*, (2020) 5 SCC 1, the Hon'ble Apex Court has settled the controversy finally by holding the anticipatory bail need not be of limited duration invariably. In appropriate case, it can continue upto conclusion of trial.

It has been further held therein that anticipatory bail granted can, depending on the conduct and behavior of the accused, continue after filing of the charge sheet till end of trial.

It has been further held by the Hon'ble Apex Court that while considering an application for grant of anticipatory bail, the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence including intimidating witnesses, likelihood of fleeing justice, such as leaving the country, etc. It has further been held that Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion.

7. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicants and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, in my view, it is a fit case for anticipatory bail to the applicants till end of the trial in the matter.

8. The anticipatory bail application is allowed.

9. In the event of arrest of the applicants in the aforesaid case crime, she shall be released on anticipatory bail till end of the trial on furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the Court concerned with the following conditions :-

(i) The applicants shall make themselves available before the court concerned on the date fixed in the matter;

(ii) 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 / her from disclosing such facts to the Court or to any police officer;

(iii) The applicants shall not leave India without the previous permission of the Court and if they have passport, the same shall be deposited by them before the S.S.P./S.P. Concerned.

10. In case of default of any of the conditions, same may be a ground for cancellation of protection granted to the applicants.

Order Date :- 31.1.2025 Rmk.