

HIGH COURT OF UTTARAKHAND AT NAINITAL

Anticipatory Bail Application No. 151 of 2022

Hoshiyar Singh Bisht

...Applicant

Versus

State of Uttarakhand and another

...Respondents

Present:-

Mr. Lalit Sharma, Advocate for the applicant.

Mr. Lalit Miglani, A.G.A., with Ms. Sonika Khulbe, Brief Holder for the State.

Mr. Mukesh Singh Rawat, Advocate for respondent no.2.

Hon'ble Ravindra Maithani, J. (Oral)

Applicant Hoshiyar Singh Bisht has sought anticipatory bail in FIR No. 51 of 2022, under Section 354-D, 376, 506 IPC, Section 66-D of the Information Technology Act, 2000, Police Station Mukhani, District Nainital.

2. Heard learned counsel for the parties and perused the record.

3. The victim was staying with her three years old son at Haldwani. Her husband was in ITBP. She was on a social media platform. She received a friend request which she accepted. Subsequently, the applicant approached her and visited her house, but did not still reveal his correct name. He introduced that he is Inspector in BSF and forcibly

established physical relations with the victim. Thereafter, according to the FIR, the applicant followed the victim, threatened her, called her at various places and made her private photographs public. The victim was upset. She committed suicide, but survived. Thereafter, she revealed the entire episode to her husband, who lodged the FIR. The FIR reveals that the applicant sent a friend request with name "A" and introduced himself with name "B", where as his name is neither "A" nor "B" but Hoshiyar Singh Bisht.

4. Learned counsel for the applicant would argue that the FIR is delayed. No date, time and place of the incident has been revealed. The applicant never met physically with the victim. The applicant did not take any photograph of the victim. They were common friends on an App. They shared the photographs. The applicant never had any chat with the victim.

5. On the other hand, learned counsel for the victim would submit that the applicant made the obscene photographs of the victim viral. He blackmailed the victim, forcibly established physical relations with her and threatened her, due to which she committed suicide, but ultimately she revealed the incident to her husband. In a

telephonic conversation with the husband of the victim, the applicant admitted his guilt. Transcript of the telephonic conversation has been enclosed as annexure 2, which has been referred to by the learned counsel for the victim.

6. Learned State counsel would also submit that the obscene photo of the victim was made viral. The telephone of the applicant was used in the entire episode; the applicant has not been cooperating with the Investigating Officer.

7. Anticipatory bail, in fact, protects a person from arrest. There are various guidelines, which are to be taken into consideration in the matters of anticipatory bail. The gravity of offence, the repeat nature of the offences, the position of the offender as well as the victim and nature of offence are some of the considerations that weigh in the mind of the Court while considering the application.

8. In the instant case, according to the prosecution, the applicant first hide his identity on the social media and when physically met the victim, he revealed his wrong name, established forcibly physical relations with the victim, thereafter, took her photographs and finally he made the obscene photograph of the victim viral, threatened her and blackmailed her.

9. A telephonic conversation has been filed alongwith the counter affidavit filed by the victim. The Court wanted to know from the learned counsel for the applicant that as to whether it is the conversation of the applicant. To which, there is no reply.

10 The offence is grave. It is against the society. It is against a woman. It is online playing with the emotions, making the intimate photographs viral.

11. Having considered the entirety of facts, this Court is of the view that there is no reason to enlarge the applicant on anticipatory bail. Accordingly, the anticipatory bail application deserves to be rejected.

12. The anticipatory bail application is rejected.

(Ravindra Maithani, J.)
16.08.2022