

# **Golu Alias Harsh vs State Of U.P. And Another on 13 August, 2024**

**Author: Vivek Varma**

**Bench: Vivek Varma**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2024:AHC:131306

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 7951 of 2023

Applicant :- Golu Alias Harsh

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Akhilesh Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. As per office report dated 6.12.2023, notice of the instant bail application has been served upon the opposite party no.2/ informant. However, no one appears on behalf of the opposite party no.2 nor any counter affidavit has been filed on his behalf.

2. Heard Sri Mukesh Kumar Pandey, Advocate holding brief of Sri Akhilesh Kumar Singh, learned counsel for the applicant, Sri Anupam Anand, learned Brief Holder for the State and perused the material available on record.

3. The applicant was granted interim anticipatory bail vide order dated 9.10.2023 passed by the co-ordinate bench of this Court. The order is quoted herein below: :

"1. Heard learned counsel for the applicant, learned AGA and perused the material available on record.

2. Present Anticipatory Bail Application has been filed with the prayer to grant anticipatory bail to the applicant -Golu Alias Harsh in Case Crime No. 85 of 2022, under Sections 363, 366, 376, 420, 467, 471 I.P.C. & Section 3/4 POCSO Act and Section 3 Prevention of Child Marriage Act, Police Station -Syana, District - Bulandshahar.

3. It is alleged in the F.I.R. that the minor prosecutrix was kidnapped by the present applicant with intention to compel her for performing marriage with the present applicant. However, she was recovered and charge sheet has been filed in this matter.

4. It is submitted by the learned counsel for the applicant that the applicant is innocent and has no concern with the present matter. Allegations levelled in the matter are general in nature. It is further argued that investigation is going-on and till date no charge-sheet has been submitted. Applicant's case is squarely covered under Section 438 Cr.P.C. If the applicant is enlarged on bail, he will not misuse the liberty and will cooperate with the investigation. The applicant has apprehension of his arrest by the police any time.

5. It is further submitted that the prosecutrix of the case is major and she has performed her marriage with her own free will with the present applicant. It is next submitted that no kidnapping had taken place in this matter. It is further submitted that earlier Criminal Misc. Writ Petition No.4664 of 2022 was moved by the present applicant and victim of this case wherein they were granted protection by this Court vide order dated 26.03.2022 and the said liberty was never misused by the applicant and now charge sheet has been submitted in this matter.

6. Learned A.G.A. opposed the prayer and it has been vehemently submitted that copy of the charge sheet has not been provided by the present applicant.

7. The matter requires consideration.

8. Issue notice to opposite party no.2 returnable within three weeks at the address given in the application. Opposite party no.2 may file counter affidavit within three weeks. Learned A.G.A. may also file counter affidavit within the same period.

9. Learned counsel for the applicant is directed to provide the copy of the charge sheet by way of supplementary affidavit by the next date of listing.

10. As an interim protection, till the next date of listing, the applicant is granted interim anticipatory bail in the aforesaid case crime number. In the event of arrest of the applicant, he shall be released on anticipatory bail on his furnishing a personal bond of Rs.50,000/- with two sureties each in the like amount to the satisfaction of Station House Officer of the police station concerned with the following conditions:-

(i) The applicant shall make himself available for interrogation by a police officer as and when required.

(ii) 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 office.

(iii) The applicant shall not leave India without the previous permission of the Court and if he has passport, the same shall be deposited by him before the S.S.P./S.P. Concerned.

11. In case of default of any of the conditions, the Investigating Officer shall be at liberty to file appropriate application for cancellation of interim protection granted to the applicant.

12. List this case on 07.11.2023 before the appropriate Court. "

4. Learned counsel for the applicant submits that the applicant has been falsely implicated in the present case. After investigation charge-sheet has been submitted against the applicant on 30.6.2023. The applicant has been summoned by the trial court for facing trial. The applicant had cooperated in the investigation. No custodial interrogation is required. The applicant is appearing before the trial court on the date fixed. The applicant has no criminal antecedents.

5. Learned Brief Holder for the State opposed the prayer for anticipatory bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having regard to the submissions made by learned counsel for the applicant, considering the nature of accusations and antecedents of the applicant and in particular the fact that the charge-sheet has been submitted against the applicant, the fact that the applicant had cooperated in the investigation and no custodial interrogation is required, the fact that, no adverse material has been produced by the learned AGA, which may warrant any modification of the order dated 9.10.2023, without commenting on merits of the case, I am of the opinion that the applicant is entitled to be enlarged on anticipatory bail.

7. In the event of arrest, the applicant- Golu Alias Harsh, involved in the aforesaid case crime, be released on anticipatory bail during pendency of 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 applicant shall make himself available on each and every date fixed in the matter by the court concerned;

(ii) 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 from disclosing such facts to the Court;

(iii) The applicant shall not leave India without the previous permission of the Court and if he has passport, the same shall be deposited by him before the concerned court.

8. In case, the applicant does not co-operate in the proceedings of the trial, this order shall stand automatically recalled/vacated and the applicant shall be taken into custody, forthwith.

9. Further, in default of any of the conditions, the court concerned is at liberty to pass appropriate orders for enforcing and compelling the same.

10. The application stands disposed of.

Order Date :- 13.8.2024 S.S.