

HIGH COURT OF UTTARAKHAND AT NAINITAL

Anticipatory Bail Application No. 713 of 2024

Saleem ...Applicant

Versus

State of Uttarakhand ...Respondent

Present:-

Mr. Harshpal Sekhon, Advocate for the applicant.

Mr. Pankaj Joshi, A.G.A. for the State.

Mr. Asif Ali, Advocate for the informant.

Hon'ble Ravindra Maithani, J. (Oral)

Applicant seeks anticipatory bail in FIR No. 289 of 2024, under Sections 323, 376, 377, 506 IPC, Police Station Jaspur, District Udham Singh Nagar.

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

3. According to the FIR, the husband of the informant has died. The applicant came close to the informant and under the pretext of marriage, he established physical relations with her. Subsequently, he continued doing so under the threat of making the video and photograph viral.

4. Learned counsel for the applicant would submit that the informant is 40 years of age. She is mother of two children. She has married twice. The relationship between

the applicant and the informant was consensual. There is no assurance of marriage.

5. It is submitted that according to the objections of the informant threats were extended after obtaining anticipatory bail of which an application was given to SSP, Udham Singh Nagar. Learned counsel would read Annexure 4, para 3 to the objections filed by the informant, which records that the threats were given by the wife of the applicant on 23.07.2024. Interim anticipatory bail was granted on 31.07.2024. Based on it, it is argued that the averments of threats given after obtaining anticipatory bail are *per se* not reliable.

6. Learned counsel for the informant would submit that applicant under the assurance of marriage established physical relations with her and now he has declined to marry. He has married some other woman. It is argued that the informant has conceived once, but Police is not collecting evidence to establish that fact.

7. This Court cannot direct the Investigating Officer to collect evidence in a particular manner. It is up to Investigation Officer to investigate all the allegations that are levelled against the accused.

8. Learned State counsel would submit that victim has supported the prosecution case during investigation.

9. Having considered the entirety of facts, this Court is of the view that this is a case fit for anticipatory bail.

10. The anticipatory bail application is allowed.

11. In the eventuality of arrest, the applicant shall be enlarged on anticipatory bail subject to his furnishing a personal bond with two sureties, each in the like amount, to the satisfaction of the Arresting Officer ("AO"). In addition to it, the applicant shall also comply with the following conditions:

- (i) The applicant shall co-operate with the investigation.
- (ii) The applicant shall not approach any witness in any manner, whatsoever.
- (iii) The applicant shall not leave the country without prior permission of the concerned court.
- (iv) The applicant shall deposit his passport with the AO. The passport may only be returned by the order of the court concerned. In case the applicant does not have passport, he shall give an undertaking to that effect to the AO.
- (v) The applicant shall also give an undertaking on (i), (ii) & (iii) above.

(Ravindra Maithani, J.)
30.09.2024