

Court No. - 76

Case :- WWW.LIVELAW.IN CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 20423 of 2021

Applicant :- Faraz Hasan

Opposite Party :- State of U.P.

Counsel for Applicant :- Syed Khursheed Anwar Alvi

Counsel for Opposite Party :- G.A.

Hon'ble Rahul Chaturvedi,J.

(1) Heard learned counsel for the applicant and learned A.G.A virtually and also perused the record.

(2) The instant application is being moved by the applicant invoking the powers of Section 438 Cr.P.C. that he has every reason to believe that he may be arrested on the accusation of having committed a non-bailable offence in connection with Case Crime No.0977 of 2021, under Sections 498A, 323, 308 IPC and Section 3/4 of Dowry Prohibition Act, P.S. Vijay Nagar District Ghaziabad.

(3) It is submitted by learned counsel for the applicant that the present matter relates to matrimonial discord and misunderstanding between the contesting parties and the said dispute could be well settled, if the matter referred to Mediation Center of Allahabad High Court.

(4) Learned counsel for the applicant submits that the wife is in precarious condition. Be it so and if the wife is not in a position to come over to Allahabad High Court Mediation Centre for the purpose of mediation, her parents may appear on her behalf for the purpose of mediation.

(5) Considering the nature of differences and nature of prosecution between the parties, the Court feels that in the interest of justice let an opportunity be granted to settle their misgiving and "issue" (if any) in an amicable and congenial way. Thus, it is directed that applicant shall deposit a sum of Rs.50,000/- latest by 10.2.2022 with the Mediation Center, of which the entire amount shall be paid to the wife only after mediation process is over before the Mediation Center. The Court expects that both the parties would render necessary assistance to settle their discord once for all.

(6) It has come to the notice of this Court that the parties are coming to the process of mediation in most non-serious way and premeditated mind. The Court refers the matter to the

A.H.C.M.C.C. with hope and trust that the parties would utilize this process and platform to have some fruitful result. The process of mediation is not for earning the amount deposited by the applicant. If the parents of wife are coming to the Center with different design in their mind and for only receiving the amount, deposited by the applicant, then this practice has to be deprecated and condemned. Thus, it is directed that if the parents of wife are coming and participating the process of mediation, then the entire amount would not be handed over to them in one go, and the same would be handed over to them in following manner :

(a) If the parents of wife approaches the Mediation Center in only one date and submits that they are no more interested in the process of mediation or absented themselves from successive occasions without any justifiable reasons, then only 50% of the entire amount deposited by the applicant, would be handed over to them or their representatives or counsel and rest amount would go to the applicant.

(b) If the contesting parties are coming and participating in the process of mediation for two or more occasions, then only the parents of wife would be entitled for full amount;

(c) If despite of the due notice to parents of wife, they do not appear without any justifiable reasons, then the entire amount would be refunded to the applicant.

d) In case the aforesaid amount is not deposited by the applicant within the aforesaid period or after depositing the aforesaid amount they fail to participate in the mediation process without any justifiable reason or prior notice, the entire amount would be fortified in the account of Mediation Center and the matter would be remitted to the court concerned immediately and interim order shall be deemed to be vacated automatically. Their is no need of any formal order for vacating the stay by the Court.

(7) The matter is remitted to the Mediation Center with the direction that the Mediation Center shall conclude the mediation and conciliation proceedings expeditiously, preferably within a period of three months after giving notices to both the parties. Only after the aforesaid amount is deposited by the applicant, notice shall be issued to the parties by the registry of Mediation Center. It is made clear that High Court Mediation & Conciliation Center, Allahabad is required to submit its report within three months.

(8) Thereafter, the case shall be listed on 20.5.2022 after receipt

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of report of High Court Mediation and Conciliation Center,
Allahabad, before appropriate Court.

(9) Till the next date of listing, no coercive action shall be taken against the applicant in aforesaid case crime, so as to enable the parties to break the ice between them. However, it is made clear that the investigation shall go on uninterruptedly and the applicant would participate in the investigation.

Order Date :- 19.1.2022

SP