

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 6778 of 2020

Applicant :- Smt. Parvin Begam

Opposite Party :- State of U.P.

Counsel for Applicant :- Syed Ali Imam

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. Heard Ms. Aparna Burman, learned Amicus Curiae for the applicant and Sri Ashutosh Srivastava, learned A.G.A. for the State and also perused the record.

2. The present anticipatory bail application has been filed on behalf of the applicant in F.I.R./Case Crime No. 405 of 2020, under Sections 363, 366 of IPC, Police Station Sahibabad, District Ghaziabad, with a prayer to enlarge her on anticipatory bail.

3. Learned Amicus Curiae appearing for the applicant has stated that the applicant has been falsely implicated in the present case. She is the mother of the main accused Almeen. Learned Amicus Curiae has further stated that the son of the applicant Alameen is stated to have enticed away the minor daughter of the informant on 29.02.2020 at about 03:00 PM. The allegation against the applicant is that she is assisting her son in the commission of said offence.

4. Learned Amicus Curiae for the applicant has also stated that the applicant is a lady and has apprehension of her arrest. She has nothing to do with the said offence as alleged by the prosecution. Learned counsel has further stated that the victim and the son of the applicant are neighbors and both had fallen in love and had eloped. Whereabouts of the son of the applicant and the victim are not known to date. The present case is a clear misuse of process of law. It is learnt that the son of the applicant and the victim are living happy married life. The applicant was granted interim protection vide order dated 15.10.2020 and she has not misused the said opportunity granted. Subsequent to it, the final report (charge-sheet) has been submitted in the matter.

5. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against her. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. It is further submitted that the applicant has no criminal history. In case, the anticipatory bail application of the applicant is allowed, she will not misuse the liberty and shall cooperate with trial.

6. On the other hand, learned A.G.A. has vehemently opposed the prayer for grant of anticipatory bail but unable to dispute the submissions raised by the learned Amicus Curiae and also the fact that the applicant has no criminal history.

7. Considering the arguments advanced by the learned counsel for the parties and in view of the law laid down by the Apex Court in the case of "**Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC online SC 98**", the applicant is entitled to be granted anticipatory bail in this case.

8. Without expressing any opinion upon ultimate merits of the case either ways which may be adversely affect the trial of the case, the anticipatory bail application of the applicant is **allowed**.

9. In the event of arrest of the applicant, **Smt. Parvin Begam** involved in the aforesaid case crime number, shall be released on anticipatory bail till the conclusion of trial on furnishing a personal bond with two sureties each in the like amount to the satisfaction of the Presiding Officer/Court Concerned, with the conditions that:-

- i. that the applicant shall make herself available for interrogation by a police officer as and when required;
- ii. that 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 officer or tamper with the evidence;
- iii. that the applicant shall not leave India without previous permission of the court;
- iv. that the applicant shall not tamper with the evidence during the trial;
- v. that the applicant shall not pressurize/ intimidate the prosecution witness;
- vi. that the applicant shall appear before the trial court on each date fixed unless personal presence is exempted;

10. In case of breach of any of the above conditions, the court concerned shall have the liberty to cancel the bail granted to the applicant.

11. It is made clear that observations made in granting anticipatory bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

12. Ms. Aparna Burman, learned Amicus Curiae has assisted the Court very diligently. This Court provide that she shall be paid counsel's fee as Rs. 15,000/-. State Government is directed to ensure payment of aforesaid fee through Additional Legal Remembrancer posted in the office of Advocate General at Allahabad, to Ms. Aparna Burman, Amicus Curiae, without any delay and, in any case, within 15 days from the date of receipt of copy of this judgment/order.

(Justice Krishan Pahal)

Order Date :- 20.11.2023
Siddhant