

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 8885 of 2023

Applicant :- Ram Kumar @ Raj Kumar

Opposite Party :- State Of U.P. And Another

Counsel for Applicant :- Vinay Kumar Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. This application has been moved on behalf of the applicant **Ram Kumar @ Raj Kumar** seeking anticipatory bail in Case Crime No. 74 of 2005, under Sections 498-A, 304-B IPC and 3/4 Dowry Prohibition Act, Police Station Raya, District Mathura.
2. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
3. In this matter, the applicant was granted interim anticipatory bail by this Court vide order dated 27.10.2023 and a prayer has been made by the learned counsel for the applicant to confirm the said order till the end of trial.
4. Counter affidavit has been filed in the matter on behalf of the State but the learned counsel for the applicant has not filed rejoinder affidavit.
5. It is a case of dowry death and the present applicant is Jeth (son of chachiya sasur) of the deceased. The death of the deceased has been caused in her matrimonial house. In the counter affidavit filed on behalf of the State the contents of the affidavit filed in support of the anticipatory bail application have been vehemently denied. It is submitted by the learned AGA that after recording the sufficient and ample evidence during trial the present applicant was summoned under Section 319 CrPC to face trial in this case. It is also submitted that the plea of separate living has been found false and baseless during the investigation. It is also submitted that apart from the dying declaration of the deceased, there are other ample evidence which sufficiently connect the present applicant with the alleged crime. It is further submitted that it is a case of dowry death of a young lady by burning within seven years of her marriage. It is also submitted that during course of evidence, the

trial court found that the present applicant not being the accused has committed the alleged offence of dowry death for which he could be tried together with the accused persons facing trial and that is why the Court proceeded against the present applicant.

6. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has settled the controversy finally by holding the anticipatory bail need not be of limited duration invariably. In appropriate case, it can continue upto conclusion of trial.

It has been further held therein that anticipatory bail granted can, depending on the conduct and behavior of the accused, continue after filing of the charge sheet till end of trial.

It has been further held by the Hon'ble Apex Court that while considering an application for grant of anticipatory bail, the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence including intimidating witnesses, likelihood of fleeing justice, such as leaving the country, etc. It has further been held that Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion.

7. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant, all attending facts and circumstances of the case and the fact that allegations are serious in nature, without expressing any opinion on the merits of the case, in my view, it is not a fit case for anticipatory bail to the applicant. Prayer made in the application is refused.

8. The anticipatory bail application is **rejected**.

Order Date :- 12.12.2023

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