

Court No. - 72

**Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 9537 of 2023**

Applicant :- Sapna Ahirwar

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

Counsel for Applicant :- Dileep Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Dileep Kumar, learned counsel for the applicant, Sri Om Prakash Yadav, learned counsel for the informant and Sri Sunil Kumar, learned A.G.A. for the State as well as perused the record.
3. The present anticipatory bail application has been filed on behalf of the applicant in Case Crime No.86 of 2023, registered under Sections 363, 366 and 116 IPC at Police Station- Uldan, District Jhansi with a prayer to enlarge her on anticipatory bail.
4. As per allegations in the FIR, the husband of the applicant Prahlad Ahirwar is stated to have enticed away the minor daughter of the informant and taken her all the way to Jhansi and got some documents signed by her indicating towards her marriage with him although he was already married to the applicant. It is also alleged that the co-accused person Prahlad Ahirwar had caused grievous injury to the daughter of the informant.
5. Learned counsel for the applicant has stated that the applicant has been falsely implicated in the present case. She is not named in the FIR. The named accused person is the husband of the applicant and she has nothing to do with the said offence. Learned counsel has further stated that the applicant has been named as an accused later on after legal consultation and her name has come up in the statement of the victim recorded under Section 164 Cr.P.C., whereby it is stated that it was the applicant who had called the victim to her house and administered her some obnoxious material in tea thereby rendering her unconscious. The said statement has been garnered after legal consultation and deliberations. The name of the applicant has come up in the statement of the witnesses after a delay of about two months. Learned counsel has further stated

that the FIR itself is delayed by about one month and there is no explanation of the said delay caused. The main allegations are against the husband of the applicant. The case of the applicant is at a different footing, being a lady, to the named accused person.

6. 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. There are no criminal antecedents of the applicant. The applicant has apprehension of her arrest. Learned counsel for the applicant undertakes that she has co-operated in the investigation and is ready to do so in trial also failing which the State can move appropriate application for cancellation of anticipatory bail.

7. Per contra, learned counsel for the informant and learned A.G.A. have vehemently opposed the anticipatory bail application but unable to dispute the submissions raised by the learned counsel for the applicant.

8. On due consideration to the arguments advanced by learned counsel for the applicant as well as learned A.G.A. and considering the nature of accusations and antecedents of the applicant, the applicant is liable to be enlarged on anticipatory bail in view of the judgment of Supreme Court in the case of "***Sushila Aggarwal Vs. State (NCT of Delhi)***, (2020) 5 SCC 1". The future contingencies regarding the anticipatory bail being granted to applicant shall also be taken care of as per the aforesaid judgment of the Apex Court.

9. In view of the above, the anticipatory bail application of the applicant is allowed. Let the accused-applicant- **Sapna Ahirwar** be released forthwith in the aforesaid case crime (supra) on anticipatory bail till the conclusion of trial on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

- (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 her 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 the previous permission of the court;
- (iv). that in case charge-sheet is submitted 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;
- (vii). that in case of breach of any of the above conditions the court concerned shall have the liberty to cancel the bail.

10. It is made clear that observations made hereinabove are exclusively for deciding the instant anticipatory bail application and shall not affect the trial.

Order Date :- 13.10.2023

Ravi Kant

(Krishan Pahal, J.)