

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10747 of 2023

Applicant :- Mansingh Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Saurabh Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Supplementary affidavit filed by learned counsel for the applicant is taken on record.
3. Heard Sri Saurabh Kumar Pandey, learned counsel for the applicant and Sri R.P. Patel, learned A.G.A. for the State as well as perused the record.
4. The present anticipatory bail application has been filed on behalf of the applicant in Case Crime No. 733 of 2022, registered under Sections 323, 504, 506, 356, 306 I.P.C. at Police Station- Barra, District- Kanpur Nagar with a prayer to enlarge him on anticipatory bail.
5. As per prosecution story, the applicant is stated to have given Rs.3 lakhs to the husband of the informant and later on the said money is stated to have been returned by him, but the applicant demanded extra Rs.5 lakhs as interest on the said loan amount, as such, abetted him to commit suicide, thereby, leading him to commit suicide on 9.11.2022 at about 05:00 a.m.
6. Learned counsel for the applicant has stated that the applicant has been falsely implicated in this case. The applicant has nothing to do with the said offence. The ingredients of Section 306 I.P.C. and 107 I.P.C. do not stand fulfilled as there is no overt act assigned to the applicant of having abetted the deceased person to commit suicide. Learned counsel has stated that the cause of death is found to be asphyxia as a result of antemortem hanging. The matter pertains to forum shopping as the same informant had instituted another FIR by moving application under Section 156(3) Cr.P.C. against one Rupesh Srivastava regarding the death of her husband owing to some illicit relationship. Learned counsel has placed reliance on the judgment of the Apex Court passed in ***Union of India vs. Cipla***

Limited and Another, (2017) 5 SCC 262, whereby forum shopping has been termed as disreputable practice.

7. Learned counsel for the applicant has further stated that the criminal history of two cases assigned to the applicant stands explained vide supplementary affidavit filed today in Court. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. The applicant has apprehension of his arrest. Learned counsel has stated that the applicant undertakes that he 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.

8. Per contra, learned A.G.A. has vehemently opposed the anticipatory bail application but unable to dispute the submissions raised by the learned counsel for the applicant.

9. 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.

10. In view of the above, the anticipatory bail application of the applicant is allowed. Let the accused-applicant- **Mansingh Yadav** be released forthwith in the aforesaid case crime (supra) on anticipatory bail till the conclusion of trial on furnishing a personal 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 himself 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 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.

11. 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 :- 18.10.2023

Vikas

[Krishan Pahal, J.]