

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11235 of 2023

Applicant :- Dilshana

Opposite Party :- State of U.P.

Counsel for Applicant :- Syed Faiz Hasnain, Mohd. Hasham, Syed Riyaz Askari

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. Supplementary affidavit filed today is taken on record.
2. Present Anticipatory Bail Application has been filed with the prayer to grant anticipatory bail to the applicant - **Dilshana** in Case Crime No.212 of 2022, under Sections 413, 414 I.P.C., Police Station - Chajlet, District- Moradabad.
3. Heard learned counsel appearing for the applicant as well as learned A.G.A. appearing for the State and perused the record.
4. It is submitted by the learned counsel for the applicant that the applicant is innocent and she has apprehension of his arrest in the above-mentioned case, whereas there is no credible evidence against her. She has been falsely implicated into this matter. Allegations levelled against the applicant are false. It is further submitted that earlier the applicant was granted anticipatory bail till submission of police report u/s 173 (2) Cr.P.C. and she has not misused the said liberty. It is further submitted that no prima facie case is made out against the applicant. No custodial interrogation is required from the applicant. Applicant has no criminal history. She has been cooperative throughout. There is no chance of fleeing away of the applicant. No custodial interrogation is required in the matter from the applicant.
5. Per contra, learned A.G.A. opposed the anticipatory bail.
6. I have considered the submissions made by learned counsel for the parties and perused the entire record.
7. In this matter earlier the applicant was granted protection til the submission of police report u/s 173 (2) Cr.P.C. and the said liberty

was not misused by her. No custodial interrogation appears to be required in this matter.

8. 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.

9. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, in my view, it is a fit case for anticipatory bail to the applicant till end of the trial in the matter.

10. The anticipatory bail application is **allowed**.

11. In the event of arrest of the applicant in the aforesaid case, she shall be released on anticipatory bail till end of the trial on her furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the Court concerned with the following conditions :-

(i) The applicant shall make herself available before the court concerned on the date fixed in the matter;

(ii) 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 / her from disclosing such

facts to the Court or to any police officer;

(iii) The applicant shall not leave India without the previous permission of the Court and if she has passport, the same shall be deposited by her before the S.S.P./S.P. Concerned.

12. In case of default of any of the conditions, same may be a ground for cancellation of protection granted to the applicant.

Order Date :- 18.10.2023

SS