

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 11049 of 2023

Applicant :- Archana Gupta

Opposite Party :- State of U.P.

Counsel for Applicant :- Raghuvansh Misra

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. Heard Sri Raghuvansh Misra, learned counsel for the applicant and Sri Anil Kumar Shukla, 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. 375 of 2023, under Section 306 of IPC, Police Station Kotwali Orai, District Jalaun, with a prayer to enlarge her on anticipatory bail.

3. As per prosecution story, the applicant and her husband Ravindra Gupta are stated to have coerced the daughter of the informant into prostitution and persisted with the said demand thereby leading her to commit suicide on 26.05.2023.

4. Learned counsel for the applicant has stated that the applicant is maliciously being prosecuted in the present case due to ulterior motive 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 cause of death has been found to be shock and asphyxia as a result of *ante mortem* hanging. The injuries were observed but nothing can be assigned to the applicant. The informant herein was the married wife of the brother-in-law (Jeth) and both had separated vide order dated 20.03.2013 passed in Divorce Petition No.96 of 2011. Learned counsel has further stated that the children used to live with their mother. Earlier on, the same lady had instituted the FIR of gang rape against the grand-father and other family members of the deceased and the applicant was exonerated in the said FIR No.93 of 2022. Learned counsel has further stated that the said FIR has been instituted just to garner money from the applicant and her husband and in the said case, closure report has been filed and it has been accepted as such.

5. Learned counsel for the applicant has further stated that no ingredients of Section 306 IPC are fulfilled. 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 counsel for the applicant 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, **Archana Gupta** 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.

(Justice Krishan Pahal)

Order Date :- 16.10.2023
Siddhant