

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 11134 of 2023

Applicant :- Smt. Mithlesh

Opposite Party :- State of U.P.

Counsel for Applicant :- Ankit Agarwal

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav,J.

1. Heard learned counsel for the applicant and learned Additional Government Advocate for the State.
2. This anticipatory bail application (under section 438 Cr.P.C.) has been moved seeking bail in Case Crime No. 213 of 2022, under sections 308, 323, 506 IPC, P.S. Salempur, District Bulandshahr during the pendency of trial.
3. As per FIR, named accused persons made an assault to the informant of this case after entering into her house and also tried to outrage her modesty and three persons including the informant sustained injuries in the incident. The FIR was lodged on 20.10.2022 and investigation started which culminated into charge sheet.
4. Learned counsel for the applicant submits that applicant is a lady and is innocent and has apprehension of arrest in the above mentioned case, whereas there is no credible evidence against him. Allegations levelled against the applicant are false. It is further submitted that co accused Aman Singh and two others have already been granted anticipatory bail vide order dated 10.10.2023 passed in Criminal Misc Anticipatory Bail Application No. 11123 of 2023. The case of the applicant stands on identical footing, hence the applicant is also entitled for anticipatory bail **on the ground of parity**. The applicant is having definite apprehension that he may be arrested by the police any time.
5. Learned AGA has opposed the prayer for bail, but could not dispute the said facts.
6. Hence without expressing any opinion on the merits of the case and considering the nature of accusations and

antecedents of applicants, they are directed to be enlarged on anticipatory bail as per the Constitution Bench judgment of the Apex Court in the case of ***Sushila Aggarwal vs. State (NCT of Delhi)- 2020 SCC Online SC 98***. The future contingencies regarding anticipatory bail being granted to applicants shall also be taken care of as per the aforesaid judgment of the Apex Court.

7. In the event of arrest, the applicants shall be released on anticipatory bail. Let the applicant Smt Mithlesh involved in the aforesaid crime be released on anticipatory bail on her furnishing a personal bond of Rs. 50, 000/- with two sureties each in the like amount to the satisfaction of the trial court concerned with the following conditions:-

(1) The applicant shall co-operate with the Investigating Officer during investigation and shall report to the Investigating Officer as and when required for the purpose of conducting investigation;

(2) 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; and

(3) The applicant shall not leave the country during the currency of trial without prior permission from the concerned trial Court.

(4) The applicant shall surrender her passport, if any, to the concerned Court forthwith. Her passport will remain in custody of the concerned Court.

(5) The applicant shall file an undertaking to the effect that she shall not seek any adjournment on the dates fixed for evidence and the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law to ensure presence of the applicants.

(6) In case, the applicant misuse the liberty of bail, the Court concerned may take appropriate action in accordance with law and judgment of Apex Court in the case of ***Sushila Aggarwal vs. State (NCT of Delhi)- 2020 SCC Online SC 98***.

(7) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of her bail and proceed against her in accordance with law.

8. In default or misuse of any of the conditions, the Public Prosecutor/ Investigating Officer/ first informant-complainant is at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicant.

9. With the aforesaid observations/ directions, the application stands **disposed of**.

Order Date :- 17.10.2023

RavindraKSingh