

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 11197 of 2023

Applicant :- Deekhsha Sharma

Opposite Party :- State of U.P.

Counsel for Applicant :- Santosh Yadav

Counsel for Opposite Party :- G.A., Shishir Tandon

Hon'ble Krishan Pahal, J.

1. Heard Sri Santosh Yadav and Sri Amit Tiwari, learned counsels for the applicant and Sri Shishir Tandon, learned counsel for the informant as well as Sri Amit Kumar, 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. 221 of 2023, under Section 306 of IPC, Police Station Bithoor, District Kanpur Nagar, with a prayer to enlarge her on anticipatory bail.

3. As per prosecution story, the applicant is stated to have entered into illicit relationship with the co-accused Rishi Verma, who happens to be the husband of the deceased person, despite knowing the fact that he was married. There are particular allegations against the co-accused Rishi Verma of having subjecting her to cruelty, as such, the deceased person is stated to have committed suicide in the morning of 19.06.2022.

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. The applicant has nothing to do with the said offence as alleged by the prosecution. Learned counsel has further stated that no ingredients of Section 306 IPC are attracted in the matter as there is no direct or overt act of having abetted the deceased to commit suicide. The father of the deceased had earlier complained at the concerned police station which was entered as G.D. No.15 dated 20.06.2023 at about 06:10 AM. Had the applicant or any other person committed the said offence, his name would have come up in the said information before the police station which tantamounts to the FIR. Learned counsel has further stated that the FIR has been instituted after a delay of one day and there is no explanation of the said delay caused.

5. Learned counsel for the applicant has further stated that cause of death of the deceased has been found asphyxia as a result of *ante mortem* hanging, as such, no role has been assigned to the applicant. Learned counsel has placed much reliance upon the report of S.H.O. of police station concerned, who has stated that the applicant had complained against the co-accused person Rishi Verma and his wife (deceased) and the matter was settled between them after intervention of police. The applicant having no criminal history and being a teacher in the department, is entitled for anticipatory bail. 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 counsel for the informant as well as learned A.G.A. have vehemently opposed the prayer for grant of anticipatory bail on the ground that the applicant and the husband of the deceased were hand in glove as is evident of their call details which is annexed as CD No.14 of the Case Diary whereby the applicant and co-accused person have regularly visited the hotel and entered into corporeal relationship. The aforesaid report was lodged just an eye wash to cover up her mislead.

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**" and also the fact that no overt act has been assigned to the applicant of abetting the deceased person to commit suicide, therefore, she 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, **Deeksha Sharma** 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 :- 18.10.2023
Siddhant