

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11243 of 2023

Applicant :- Smt. Mamta Sharma

Opposite Party :- State of U.P.

Counsel for Applicant :- Moeez Uddin

Counsel for Opposite Party :- G.A., Amit Kumar Singh

Hon'ble Krishan Pahal, J.

1. List has been revised. Supplementary affidavit filed today by the learned counsel for the applicant is taken on record.
2. Heard Sri Moeez Uddin, learned counsel for the applicant, Sri Amit Kumar Singh, learned counsel for the informant and Sri Sunil Kumar, learned A.G.A. for the State and also perused the material available on record.
3. The present anticipatory bail application has been filed on behalf of the applicant in F.I.R./Case Crime No.396 of 2023, under Section- 306 IPC, Police Station- Kotwali Karvi, District- Chitrakoot with a prayer to enlarge her on anticipatory bail.
4. As per prosecution story, the applicant in collusion with her sister Mohini Sharma and Sita Sharma are stated to have abetted the deceased (Devi Prasad Sharma) who happened to be father-in-law of Mohini Sharma by which he committed suicide. The cause of death could not be ascertained, as such viscera was preserved and has been sent to chemical analysis.
5. Learned counsel for the applicant has stated that there are general allegations against all the accused persons. The applicant is the sister of Mohini Sharma, whose father-in-law has committed suicide. Learned counsel has stated that no ingredients of section 306 I.P.C. are attracted, as such the ingredients of abetment under section 107 I.P.C. have not been fulfilled. The applicant has no criminal antecedents and being a lady, she is entitled to anticipatory bail.
6. 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.

7. Per contra, learned A.G.A. as well as learned counsel for the informant has stated that applicant had instigated the deceased person by which he has committed suicide. However, they could not dispute the submissions raised by the learned counsel for the applicant and also the fact that the applicant has no criminal history.

8. 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.

9. Without expressing any opinion upon ultimate merits of the case either ways which may adversely affect the trial of the case, the anticipatory bail application of the applicant is allowed.

10. In the event of arrest of the **applicant- Smt. Mamta 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;

11. 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.

12. 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 :- 17.11.2023

Saif