

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11387 of 2023

Applicant :- Chandra Prakash And 2 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Anand Pati Tiwari

Counsel for Opposite Party :- G.A.,Dhirendra Kumar
Verma,Renu Swarnkar

Hon'ble Krishan Pahal,J.

1. List has been revised. Learned counsel for the informant is not present.
2. Heard Sri Anand Pati Tiwari, learned counsel for the applicants and Sri V.K.S. Parmar, learned A.G.A. for the State as well as perused the record.
3. The present anticipatory bail application has been filed on behalf of the applicants in Case Crime No.32 of 2023, registered under Section 306 I.P.C. at Police Station- G.R.P., District- Etawah with a prayer to enlarge them on anticipatory bail.
4. As per prosecution story, the applicants, who happen to be in-laws of the deceased person, are stated to have abetted the deceased person to commit suicide as they had earlier on demanded Rs.3 lakhs for construction of house and at the time of marriage of the applicant no.3, Vinay Prakash, they had taken Rs.1,50,000/- more. Subsequently, they had demanded Rs.50,000/- for the same, but the deceased person could not cede to the said demand, as such, was feeling humiliated due to the abuses and misbehaviour of the applicants. The applicants are even stated to have asked him to die, as such, the deceased person committed suicide on 16.5.2023.
5. Learned counsel for the applicants has stated that the applicants have been falsely implicated in this case. The FIR is delayed by about four days and there is no explanation of the said delay caused. Learned counsel has stated that no ingredients of abetment to suicide are fulfilled in the case and has placed much reliance on the paragraph-15 of the judgment of the Apex Court passed in ***Sanju Alias Sanjay Singh Sengar vs. State of Madhya Pradesh, AIR 2002 SC 1998***, which reads as under:-

"15. A plain reading of the suicide note would clearly show that the deceased was in great stress and depressed. One plausible reason could be that the deceased was without any work or avocation and at the same time indulged in drinking as revealed from the statement of the wife Smt Neelam Sengar. He was a frustrated man. Reading of the suicide note will clearly suggest that such a note is not the handiwork of a man with a sound mind and sense. Smt Neelam Sengar, wife of the deceased, made a statement under Section 161 CrPC before the investigation officer. She stated that the deceased always indulged in drinking wine and was not doing any work. She also stated that on 26-7-1998 her husband came to them in an inebriated condition and was abusing her and other members of the family. The prosecution story, if believed, shows that the quarrel between the deceased and the appellant had taken place on 25-7-1998 and if the deceased came back to the house again on 26-7-1998, it cannot be said that the suicide by the deceased was the direct result of the quarrel that had taken place on 25-7-1998. Viewed from the aforesaid circumstances independently, we are clearly of the view that the ingredients of "abetment" are totally absent in the instant case for an offence under Section 306 IPC. It is in the statement of the wife that the deceased always remained in a drunken condition. It is common knowledge that excessive drinking leads one to debauchery. It clearly appeared, therefore, that the deceased was a victim of his own conduct unconnected with the quarrel that had ensued on 25-7-1998 where the appellant is stated to have used abusive language. Taking the totality of materials on record and facts and circumstances of the case into consideration, it will lead to the irresistible conclusion that it is the deceased and he alone, and none else, is responsible for his death."

6. Learned counsel for the applicants has further stated that the applicants have no criminal history to their credit. Several other submissions have been made on behalf of the applicants to demonstrate the falsity of the allegations made against them. The circumstances which, as per counsel, led to the false implication of the applicants have also been touched upon at length. The applicants have apprehension of their arrest. Learned counsel has stated that the applicants undertake that they have co-operated in the investigation and are ready to do so in trial also failing which the State can move appropriate application for cancellation of anticipatory bail.

7. Per contra, learned A.G.A. has vehemently opposed the anticipatory bail application on the ground that the applicants were hand-in-glove and had committed the said offence of abetment to suicide as there is a CD on record. The transcription is mentioned in the inquest report itself.

8. On due consideration to the arguments advanced by learned counsel for the applicants as well as learned A.G.A. and considering the nature of accusations and antecedents of the applicants, the applicants are liable to be enlarged on anticipatory bail in view of the judgment of Supreme Court in the case of **"Sushila Aggarwal Vs. State (NCT of Delhi)**,

(2020) 5 SCC 1". The future contingencies regarding the anticipatory bail being granted to applicants shall also be taken care of as per the aforesaid judgment of the Apex Court.

9. In view of the above, the anticipatory bail application of the applicants is allowed. Let the accused-applicants- **Chandra Prakash, Smt. Siddhisri** and **Vinay Prakash** be released forthwith in the aforesaid case crime (supra) on anticipatory bail till the conclusion of trial on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

- (i). that the applicants shall make themselves available for interrogation by a police officer as and when required;
- (ii). that the applicants 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 them from disclosing such facts to the court or to any police officer or tamper with the evidence;
- (iii). that the applicants shall not leave India without the previous permission of the court;
- (iv). that in case charge-sheet is submitted the applicants shall not tamper with the evidence during the trial;
- (v). that the applicants shall not pressurize/ intimidate the prosecution witness;
- (vi). that the applicants shall appear before the trial court on each date fixed unless personal presence is exempted;
- (vii). that in case of breach of any of the above conditions the court below shall have the liberty to cancel the bail.

10. It is made clear that observations made hereinabove are exclusively for deciding the instant anticipatory bail application and shall not affect the trial.

Order Date :- 28.10.2023
Vikas

[Krishan Pahal, J.]