

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11450 of 2023

Applicant :- Vipin Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Vinod Kumar Tirpathi, Amit Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. This application has been moved on behalf of the applicant **Vipin Kumar** seeking anticipatory bail in Case Crime No. 148 of 2023, under Section 306 IPC, Police Station Kotwali City, District Bulandshahr.

2. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

3. It is alleged in the F.I.R. that the accused Vipin Kumar used to live with and to visit the house of the deceased for a period of about two years. He also used to threaten and make assault upon her and often demanded money from her. She was very much puzzled and frustrated and ultimately on 16.2.2023 she committed suicide by hanging. F.I.R. was lodged against the present applicant by the informant, the mother of the deceased, on 22.2.2023, investigation started, which is still going on.

4. It is submitted by the learned counsel for the applicant that applicant is innocent and he has apprehension of his arrest in the above-mentioned case, whereas there is no credible evidence against him. Allegations levelled against the applicant are false. There was no abetment or instigation on the part of the applicant to the deceased to commit suicide. It is also submitted that the prosecution story is not natural and probable. It is not natural that the applicant used to visit and live with the deceased, who was a married lady for a period of two years and she never made any complaint to her husband regarding the same. It is also submitted that the applicant is the resident of the village of the deceased and he was working only as a servant there and has no concern or relation with the deceased at all. Essential ingredients of the offence under Section 306 IPC are completely missing in this case. The applicant has no criminal history. The investigation of the case

is going on. It has been submitted that in case applicant is granted anticipatory bail, he shall not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. opposed the prayer for anticipatory bail and submitted that during investigation sufficient and ample evidence has been collected against the applicant to the effect that the deceased was abetted by the applicant to commit suicide. He was continuously harassing the deceased, who was separately living from her husband and her continuous torture with the deceased has been narrated by her sister Smt. Neetu in her statement given to the I.O. under Section 161 CrPC. The minor daughter of the deceased has also narrated the same story in her statement given to the I.O. and specific statement has been made by her that the present applicant often used to make assault upon the deceased and the small child of the deceased has also corroborated the same version in his statement given to the I.O. under Section 161 CrPC. It is also submitted that in the post mortem report the cause of the death of the deceased has been found asphyxia due to ante mortem hanging. It is further submitted that the informant of the case has also narrated the conduct of the applicant as to how he continuously tortured her daughter and brought her in a state of deep depression and ultimately she committed suicide. It is also submitted that the deceased had absolutely no reason to commit suicide unless he was abetted/ instigated by the applicant.

6. I have considered the rival submissions made by the learned counsel for the parties.

7. From the perusal of the record it reveals that during investigation evidence has been collected to the effect that the present applicant often used to make assault upon the deceased. The informant of the case has also narrated the conduct of the applicant as to how he continuously tortured her daughter and brought her in a state of deep depression.

8. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has held that while considering an application for grant of anticipatory bail, the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence including intimidating witnesses, likelihood of fleeing justice, such as leaving the country, etc. It has further been held that Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of

the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion.

9. In Ude Singh and Others Versus State of Haryana, (2019) 17 Supreme Court Cases 301, it has been held by the Hon'ble Apex Court that -

"16.1. For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above-referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of Section 306 IPC.....However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide."

10. In the peculiar facts and circumstances of the case, torture and harassment caused to the deceased by the present applicant, may be taken as an abetment to the deceased to commit suicide.

11. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant, all attending facts and circumstances of the case and the fact that his continuous course of conduct which created a situation leading the deceased perceiving no other option except to commit suicide and also the fact that the allegations are serious in nature, without expressing any opinion on the merits of the case, in my view, it is not a fit case for anticipatory bail to the applicant. Prayer made in the application is refused.

12. The application is **rejected**.

Order Date :- 17.10.2023

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