

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11520 of 2023

Applicant :- Priyanka Singh

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Kuldeep Singh Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav,J.

1. Heard Sri Kuldeep Singh Yadav, 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.234 of 2023, under Section 306 I.P.C., P.S.- Khandauli, District-Agra.

3. Learned counsel for the applicant submitted that the applicant has been falsely implicated in the present case. The applicant is the wife of the deceased and FIR was lodged by the father of the deceased. The incident took place on 27.06.2023 where FIR was lodged on 02.07.2023 after five day of the incident without explanation of delay. He submitted that the applicant was residing at her parental house and the deceased committed suicide at his house. There is no suicidal note. He also submitted that FIR could not show abatement of suicide. There is no instigation, only in the FIR, the applicant said the deceased to go and die. The applicant never instigated the deceased to commit suicide, only for saying that go and die, will not come within pervue of Section 306 I.P.C.. In support of this submission, learned counsel for the applicant placed reliance upon paragraph no. 25 of the judgment passed by the Apex Court in the case of **Mariano Anto Bruno & Another Vs. The Inspector of Police** reported in **2022 0 Supreme (SC) 1034**, which reads as under:-

"The ingredients of Section 306 IPC have been extensively laid out in M. Arjunan Vs. State, represented by its Inspector of Police, (2019) 3 SCC 315 which are as under:-

"The essential ingredients of the offence under Section 306 I.P.C. are: (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, accused cannot be convicted under Section 306 IPC."

4. Learned counsel for the applicant further submitted that the applicant is having no previous criminal history as has been mentioned in paragraph 32 of the affidavit. Till date no charge sheet has been submitted. The applicant has apprehension of imminent arrest and in case, applicant is released on anticipatory bail, she will not misuse the liberty and would co-operate with the trial.

5. Learned A.G.A. has opposed the prayer for anticipatory bail of the applicant. He has submitted that in view of the seriousness of the allegations made against the applicant, she is not entitled to grant of anticipatory bail. The apprehension of the applicant is not founded on any material on record. Only on the basis of imaginary fear, anticipatory bail cannot be granted.

6. Hence without expressing any opinion on the merits of the case and considering the nature of accusations and antecedents of applicant, she is 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 applicant shall also be taken care of as per the aforesaid judgment of the Apex Court.

7. In the event of arrest, the applicant shall be released on anticipatory bail. Let the applicant- **Priyanka Singh**, involved in the aforesaid case crime be released on anticipatory bail till conclusion of trial on 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:-

(i) 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.

(ii) 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.

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

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

(v) 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 applicant.

(vi) In case, the applicant misuses 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**.

(vii) 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 is **allowed**.

Order Date :- 6.11.2023

Krishna*