

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11702 of 2023

Applicant :- Hasan

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- A.C.Tiwari(Ac),Shyam Kishore
Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav,J.

1. Heard 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. 57 of 2023, under sections 498-A, 304-B IPC and Section 3/4 of D. P. Act, P.S. Kharela, District Mahoba during the pendency of application.
3. In short, allegation against the applicant is that he along with other family members are said to have demanded extra dowry from the daughter of the informant for purchase of a vehicle and when it was not fulfilled, all the accused persons caused dowry death of the deceased by pouring kerosene oil on 27.3.2023.
4. Learned counsel for the applicant submits that applicant has been falsely implicated in the present case. Applicant is devar of the deceased and real bhanja of the informant. Learned counsel for the applicant submits that F.I.R. has been lodged on 1.07.2023 roping in the entire family members of the husband of the deceased including the husband. In the FIR, false allegation has been levelled against the applicant. It is further submitted that marriage of daughter of the informant was solemnized on 13.08.2020 by the informant with her real bhanja Mohd Raza (husband/co accused) and both parties are blood relatives and well known to each others and further co accused Smt Jareena, Smt Bhoori and Smt Guddan are real nanads of the informant and are married to three real brothers, who are also co accused in the present FIR without demand of any

dowry. It is further submitted that deceased died on 20.4.2023 after about 20 days of the incident during treatment and further the deceased in her dying declaration recorded on 28.03.2023 by the doctor has herself stated that she caught fire accidentally. It is further submitted that the treatment of the deceased were carried out by the husband and his other family members and further has drawn the attention of the court towards annexure no. 7 to contend that the deceased was admitted for medical treatment on 8.4.2023 and she was admitted to the hospital by her father-in-law. It is further submitted that panchayatnama and last burial were taken in presence of the informant. The applicant is having definite apprehension that he may be arrested by the police any time.

5. Learned AGA has opposed the prayer for bail, but could not dispute the said facts.

6. Hence without expressing any opinion on the merits of the case and considering the nature of accusations and antecedents of applicant, he 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 Hasan involved in the aforesaid crime be released on anticipatory bail 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:-

(1) 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;

(2) 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; and

(3) The applicant shall not leave the country during the

currency of trial without prior permission from the concerned trial Court.

(4) The applicant shall surrender his passport, if any, to the concerned Court forthwith. His passport will remain in custody of the concerned Court.

(5) The applicant shall file an undertaking to the effect that he 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.

(6) 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.***

(7) 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 his bail and proceed against him 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 stands **disposed of.**

Order Date :- 27.10.2023

RavindraKSingh