

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11844 of 2023

Applicant :- Smt Asma

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

Counsel for Applicant :- Hemant Sharma

Counsel for Opposite Party :- G.A.,Anil Kumar Jaiswal

Hon'ble Shekhar Kumar Yadav,J.

1. Heard Mr. Hemant Sharma, learned counsel for the applicant, learned Additional Government Advocate for the State and Mr. Anil Kumar Jaiswal, learned counsel for the informant.

2. This anticipatory bail application (under section 438 Cr.P.C.) has been moved seeking bail in Case Crime No.584 of 2023, under Section 306 IPC, Police Station Sikandrabad, District Bulandshahar.

3. The facts, in brief, are that the informant's sister Jaiba alias Guddi got married about 12 years ago to Aas Mau alias Ashu, son of Ida, resident of Mohalla Saddiknagar, Jainam Marriage Hum Ke Peeche, Town & Police Station Secunderabad, District Bulandshahar. After a few days of her marriage, Jaiba alias Guddi's brother-in-law, namely, Sultan, who is a debauched person, used to keep an evil eye on Jaiba and forced her to do dirty work. Due to his bad tendencies, his son's wife and younger brother's wife (who were well-educated, intelligent girls) also got fed up with his actions and ultimately got divorce. It is further alleged that Jaiba's brother-in-law, namely, Sultan and sister-in-law, namely, Asma and their son Aman used to harass the informant's sister a lot and all of them are involved in anti-social activities. It is further alleged that accused also wanted to involve Jaiba in the same dirty activities, which was

opposed by Jaiba due to this reason the accused persons started torturing mentally and physically, due to which, Jaiba got upset and sent a video to the informant regarding the alleged incident. It is further alleged that just to save her honor and dignity, Jaiba committed suicide due to the torture and atrocities of all in-laws and forcing her to indulge in anti-social dirty deeds.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the present case, in fact, no such incident has taken place. The applicants has never committed any offence as alleged in the impugned FIR. The applicant has never demanded any dowry from the deceased. The applicant is sister-in-law of the deceased. The applicant is residing separately from the deceased and her husband. Only general allegation has been levelled against the applicant. No specific role has been assigned against the applicant. There are material contradiction in the statement of the witnesses. Prima facie no offence is made out against the applicant. The investigation is going on and till date no charge sheet has been filed. The applicant is having no previous criminal history as has been mentioned in paragraph 27 of the affidavit.

4. Learned counsel for the applicant further submits that 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. as well as learned counsel for the informant/victim vehemently opposed the prayer for anticipatory bail of the applicant and have submitted that the husband of the deceased has fully supported the prosecution story. As per postmortem report, the cause of death of the deceased is on account of asphyxia as a result of ante-mortem hanging. they have further stated that the allegations are very

serious and keeping in view the seriousness of the allegations made against the applicant, applicant 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. In the light of above, looking to the facts and circumstances of this case, submissions of learned counsel for the parties as mentioned above, taking into consideration the role assigned to the applicant as per prosecution case, gravity and nature of accusation, this Court is of the view that no case for exercising its discretionary power under Section 438 Cr.P.C. is made out in favour of the applicant.

7. Accordingly, this application under Section 438 Cr.P.C. is **dismissed**.

8. However considering the facts and circumstances of the case, it is directed that in case the applicant appears before the court below and seeks grant of bail, her bail application shall be heard and decided expeditiously in accordance with law.

Order Date :- 24.11.2023
Ajeet