

Court No. - 73

**Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11802 of 2023**

Applicant :- Sushila Devi

Opposite Party :- State of U.P.

Counsel for Applicant :- Pradeep Kumar Mishra, Gyanesh Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
2. This application has been moved on behalf of the applicant **Sushila Devi** seeking anticipatory bail in Case Crime No. 552 of 2023, under Sections 498-A, 304-B IPC and 3/4 D.P. Act, Police Station- Banda, District- Shahjahanpur.
3. The deceased was subjected to cruelty and harassment for demand of Rs.5000/- from her family members and when it was denied by the informant, dowry death of the deceased was caused in the house of her in-laws. FIR was lodged on 31.7.2023 against husband and mother-in-law of the deceased and investigation started, which is going on.
4. It is submitted by the learned counsel for the applicant that the applicant is innocent and has no concern with the present matter. Allegations levelled against the applicant are false. It is further submitted that investigation is going-on and till date no charge-sheet has been submitted against the accused applicant. It is further submitted that the applicant is the mother-in-law of the deceased and as per allegations made in the FIR a demand of Rs.5,000/- was only made by the in-laws and subsequently the dowry death was caused. It is further submitted that the prosecution story is not probable at all, the cause of death of the deceased has been found aphasia as a result of ante-mortem hanging and no injury except the ligature mark has been found over the body of the deceased. It is further submitted that the applicant has no criminal antecedent to her credit. She is a handicapped old lady having 40% disability. It is further submitted that she lives separately from the deceased and her husband and the deceased committed suicide for some unknown reasons. The applicant is cooperating with the

investigation of the case and is entitled for anticipatory bail. It is lastly submitted that in case applicant is granted anticipatory bail, she will not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. opposed the prayer for anticipatory bail. It is submitted that ample evidence has been collected regarding demand of money from the deceased by her husband and mother-in-law, the present applicant during the course of investigation. It is also notable that except the husband and mother-in-law of the deceased no other in-law of the deceased has been made accused in the present matter, which denotes the correctness of the prosecution story. It is further submitted that the plea of separate living made by the applicant has been found wrong in the investigation. It is further submitted that the death of the deceased has been caused within the house of the present applicant and she has not given plausible explanation to that.

6. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has settled 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.

7. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, I deem it not a fit case to grant anticipatory bail to the present applicant. Prayer made in the application is refused.

8. The anticipatory bail application is **rejected**.

Order Date :- 3.11.2023

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