

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11717 of 2023

Applicant :- Pushpendri Devi And 3 Others

Opposite Party :- State Of U.P. And Another

Counsel for Applicant :- Mahesh Kumar Kuntal

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav,J.

1. Heard Mr. Mahesh Kumar Kuntal, learned counsel for the applicants 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.404 of 2021, under Sections 306, 504 IPC, Police Station Malpura, District Agra.

3. Learned counsel for the applicants submits that the applicants have been falsely implicated in the present case, in fact, no such incident has taken place. The applicants have never committed any offence as alleged in the impugned FIR. The applicant no.1 is wife, applicant no.2 is father-in-law aged about 72 years, applicant no.3 is brother-in-law (sala) and the applicant no.4 is sister-in-law of the deceased aged about 71 years. The deceased himself has committed suicide on 27.09.2021 whereas the impugned FIR has been lodged on 04.10.2021 i.e. about 7 days of the alleged incident for which no plausible explanation has been mentioned. As per version of the FIR, the deceased went to his in-laws house for taking his wife where some threats were given by the in-laws and deceased returned back his house and due to threatening given by in-laws, the deceased committed suicide. He further submits that earlier the applicants have approached this Court by filing Criminal Misc. Anticipatory Bail Application Nos.265 and 276 of 2022 in which interim protections were given to the applicants till filing of police report under Section 173 (2) Cr.P.C. Now the charge sheet has been submitted. He further submits that during investigation the applicants have fully cooperated in the investigation and have never misused the liberty, therefore, there is no need of custodial interrogation, hence, the applicants may be granted anticipatory bail till conclusion of trial. He further submits that the alleged suicide note was sent to the FSL but the same was

not verified by the FSL Report Agra. He further submits that all applicants were living in their house at Village Sinsini, District Bharatpur, Rajasthan whereas the deceased has committed suicide in his parental house, hence, no offence under Section 306 IPC is made out against the applicants. None of the witnesses have supported the prosecution story. The applicants are having no previous criminal history as has been mentioned in paragraph 27 of the affidavit. He further submits that applicants have apprehension of imminent arrest and in case, the applicants are released on anticipatory bail, they will not misuse the liberty and would co-operate with the trial.

4. Learned A.G.A. has vehemently opposed the prayer for anticipatory bail of the applicants but could not dispute the aforesaid contentions raised by learned counsel for the applicants.

5. Hence without expressing any opinion on the merits of the case and considering the nature of accusations and antecedents of applicants, they are 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 applicants shall also be taken care of as per the aforesaid judgment of the Apex Court.

6. In the event of arrest, the applicants shall be released on anticipatory bail. Let the applicants-**Pushpendri Devi, Jitendra Singh, Amar Singh, Pushpendra and Smt. Laxmi**, involved in the aforesaid 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 applicants 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 them from disclosing such facts to the Court or to any police officer;

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

(iii) The applicants shall surrender their passport, if any, to the concerned Court forthwith. Their passport will remain in custody of the concerned Court.

(iv) The applicants shall file an undertaking to the effect that they 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 applicants.

(v) In case, the applicants misuse 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.***

(vi) The applicants 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 their bail and proceed against them in accordance with law.

7. 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 applicants.

8. With the aforesaid observations/ directions, the application is **disposed of.**

Order Date :- 9.11.2023

Ajeet