

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12049 of 2023

Applicant :- Vishal Taneja

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

Counsel for Applicant :- Gaurav Srivastav, Rajesh Kumar
Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. Heard Sri Gaurav Srivastav, learned counsel for the applicant as well as Sri Anit Kumar Shukla, learned A.G.A. for the State and also perused the record.
2. The present anticipatory bail application has been filed on behalf of the applicant in F.I.R./Case Crime No. 353 of 2023, under Sections 498A, 323, 504, 506, 313, 328, 377, 406 IPC and 3/4 Dowry Prohibition Act, Police Station New Agra, District Agra, with a prayer to enlarge him on anticipatory bail.
3. As per prosecution story, the marriage of the informant was solemnized with the applicant as per Hindu rites on 9.2.2006 and her parents had spent about Rs. 25 lakhs in the marriage. Out of the said wedlock, a baby boy was born. The applicant and other family members are stated to have demanded Rs. 20 lakhs and one Honda City car as dowry from her.
4. There are allegations of illicit relationship and drinking against the applicant. The same allegations were repeated several times, as such, the applicant is stated to have sent the informant to her maternal home on 7.8.2017, but subsequently, the informant was taken to his house by the applicant on 2.7.2018 but the said indecent and rude behaviour continued, as such, the applicant and other family members are stated to have administered her some pills, which used to make her asleep. In the meantime, the informant is stated to have been impregnated, as such, the said foetus were aborted at the behest of the applicant and other family members at the clinic of Dr. Dhonde, Gwalior. After it, on 29.10.2020 the same demand was repeated by the applicant and other family members and the informant was sent back to her maternal home.

5. Learned counsel for the applicant has stated that the applicant is maliciously being prosecuted in the present case due to ulterior motive and has the apprehension of his arrest. The applicant has nothing to do with the said offence as alleged by the prosecution. Learned counsel has next stated that the FIR is delayed by about three years and there is no explanation of the said delay caused. There is no injury report to corroborate the prosecution story. Prior to the date of incident, the victim and the applicant had happily lived for seventeen long years. The allegations have just been inflated after legal consultation.

6. Learned counsel has placed reliance on the Annexure-6 which indicates towards the illicit relationship of the victim herself. Learned counsel has also stated that the co-accused persons Smt. Anju Taneja and Shyamlal Taneja have been enlarged on anticipatory bail by the Additional Sessions Judge, Court No. 1, Agra, dated 29.9.2023. It is further stated that the anticipatory bail application of the applicant has been rejected simply because he is the husband of the informant. Learned counsel has stated that the present case seems to be clear misuse of the dowry laws.

7. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. It is further submitted that the applicant has no criminal antecedents. In case, the anticipatory bail application of the applicant is allowed, he will not misuse the liberty and shall cooperate with trial.

8. On the other hand, learned A.G.A. has vehemently opposed the prayer for grant of anticipatory bail but unable to dispute the submissions raised by the learned counsel for the applicant and also the fact that the applicant has no criminal history.

9. On due consideration to the arguments advanced by the learned counsel for the parties, the delay of three years in lodging the FIR, the fact that there is no medical report to corroborate the prosecution story coupled with the fact that the co-accused persons, who are the mother-in-law and father-in-law, have been enlarged on anticipatory bail, and in view of the law laid down by the Apex Court in the case of "**Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC online SC 98**", the applicant is entitled to be granted anticipatory bail in this case.

10. Without expressing any opinion upon ultimate merits of the

case either ways which may adversely affect the trial of the case, the anticipatory bail application of the applicant is **allowed**.

11. In the event of arrest of the applicant, **Vishal Taneja** involved in the aforesaid case crime number, shall be released on anticipatory bail till the conclusion of trial on furnishing a personal bond with two sureties each in the like amount to the satisfaction of the Presiding Officer/Court Concerned, with the conditions that:-

- i. that the applicant shall make himself available for interrogation by a police officer as and when required;
- ii. that 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 or tamper with the evidence;
- iii. that the applicant shall not leave India without previous permission of the court;
- iv. that the applicant shall not tamper with the evidence during the trial;
- v. that the applicant shall not pressurize/ intimidate the prosecution witness;
- vi. that the applicant shall appear before the trial court on each date fixed unless personal presence is exempted;

12. In case of breach of any of the above conditions, the court concerned shall have the liberty to cancel the bail granted to the applicant.

13. It is made clear that observations made in granting anticipatory bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 2.11.2023
Shalini