

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11950 of 2023

Applicant :- Tasnim Begam @ Tasmim And Another

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

Counsel for Applicant :- Vishal Agarwal

Counsel for Opposite Party :- G.A.,Dhiraj Kumar Pandey

Hon'ble Shekhar Kumar Yadav,J.

1. In compliance of order of this Court dated 20.11.2023, Abdul Samar (husband of the opposite party no.3 is present before this Court in person. Despite order of this Court, the opposite party no.3 is not present.

2. Heard Sri Vishal Agarwal,, learned counsel for the applicants and Sri Dhiraj Kumar Pandey, learned counsel for the opposite party no.3 and learned A.G.A. for the State as well as perused the record.

3. Learned counsel for the applicants submitted that the applicants have been falsely implicated in the present case. The applicant no.1 is mother-in-law and applicant no.2 is sister-in-law of the opposite party no.3, the applicants have no concern with the alleged incident. There are general allegation has been levelled against the entire family of the applicants. He submitted that husband of the opposite party no.3 has been granted regular bail by the court below. The applicants have no criminal history. Learned counsel for the applicants further submitted that applicants have apprehension of imminent arrest and in case, applicants are released on anticipatory bail, they will not misuse the liberty and would co-operate with the trial.

4. Learned counsel for the opposite party no.3 as well as learned A.G.A. have opposed the prayer for bail but could not dispute the submission advanced 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 applicant 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- **Tasnim Begam @ Tasmim** and **Gazala** involved in the aforesaid case 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:-

(i) The applicants 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.

(ii) 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.

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

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

(v) 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.

(vi) In case, the applicants 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**.

(vii) 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 his 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. There is no need to deposit Rs.50,000/- in favour of the opposite party no.3 as directed by this Court vide order dated 1.11.2023.

9. With the aforesaid observations/ directions, the application stands **allowed**.

Order Date :- 13.12.2023

Krishna*