

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 11871 of 2023

Applicant :- Rahul Chauhan

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajay Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Ajay Dubey, learned counsel for the applicant and Sri Deepak Kulshrestha, learned counsel for the informant as well as Sri Shakil Ahmad, learned A.G.A. for the State and also perused the record.
3. The present anticipatory bail application has been filed on behalf of the applicant in F.I.R./Case Crime No. 426 of 2023, under Section 306 of IPC, Police Station Hari Parwat, District Agra, with a prayer to enlarge him on anticipatory bail.
4. As per prosecution story, the marriage of the sister of the applicant Jyotsana @ Jyoti was solemnized with the son of the informant Gaurav Sikarvar @ Prince (now deceased) and both had fallen apart. The sister of the applicant Jyotsana @ Jyoti had filed a petition for maintenance against her husband (deceased). The deceased has filed a petition u/s 9 of the Hindu Marriage Act and the date was fixed for 04.09.2023. On the date fixed, the applicant and other co-accused persons are stated to have threatened him and had demanded Rs.20 lakhs to get the matter settled, leading him to commit suicide. The deceased had committed suicide by hanging to a ceiling fan on 09.09.2023.
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 apprehension of his arrest. He has nothing to do with the said offence as alleged by the prosecution. Learned counsel has further stated that he is the brother-in-law of the deceased person and younger brother of the wife of the deceased. The allegation of applicant having demanded Rs.20 lakhs has been added just to add colour to the prosecution story. Learned counsel has further stated that the suicide note does indicate that it was the applicant who had threatened the deceased person to provide them with Rs.20 lakhs else he shall kill him. The said threat does not tantamount to abetment to commit suicide, as such, no ingredients of Section 306 IPC are fulfilled.
6. 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 history. In case, the anticipatory bail application of the applicant is allowed, he will not misuse the liberty and shall cooperate

with trial.

7. On the other hand, learned counsel for the informant as well as learned A.G.A. have vehemently opposed the prayer for grant of anticipatory bail on the ground that the applicant is the main accused person who had threatened the deceased to cause his death in case Rs.20 lakhs are not provided to him.

8. Considering the arguments advanced by the learned counsel for the parties 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.

9. 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**.

10. In the event of arrest of the applicant, **Rahul Chauhan** 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;

11. 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.

12. 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 :- 30.10.2023

Siddhant