

Court No. - 72

**Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12042 of 2023**

Applicant :- Rohit And 3 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Mukesh Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Mukesh Kumar, learned counsel for the applicants and Sri Anit Kumar Shukla, learned A.G.A. for the State as well as perused the record.
3. The present anticipatory bail application has been filed on behalf of the applicants in Case Crime No.139 of 2023, registered under Sections 306, 506 I.P.C. and 3/4 Dowry Prohibition Act at Police Station Mirzapur, District Shahjahanpur with a prayer to enlarge them on anticipatory bail.
4. Learned counsel for the applicants has informed that the applicant nos. 3 & 4 have been arrested, as such, the anticipatory bail application qua applicant no.3- Jagdish and applicant no.4- Shishupal is dismissed as having been rendered infructuous.
5. As far as the applicant no.1- Rohit and applicant no.2- Mohit are concerned, the anticipatory bail application is being heard.
6. As per prosecution story, the applicant no.2 is stated to have enticed away the daughter of the informant on 19.3.2023 and had married her in the Arya Samaj Mandir, Prayagraj and an FIR was instituted by the son of the informant as Case Crime No.88 of 2023 regarding the said offence, but subsequently as the both had married, the son of the informant did not proceed with the said FIR. After sometime, the applicants are stated to have subjected her to cruelty for demand of dowry of Rs.1 lakh, as such, she got depressed. The applicants are even stated to have made indecent video of the daughter of the informant and had even threatened to make it viral on social media, leading the deceased person to commit suicide on 12.5.2023.

7. Learned counsel for the applicants has stated that they have been falsely implicated in this case. The victim and applicant no.2 were living happily after the marriage which was solemnized at the Arya Samaj Mandir, Prayagraj and both of them had filed writ petition before this Court. Learned counsel has further stated that no ingredients of Section 306 I.P.C. are fulfilled, although the FIR was instituted under Section 304-B I.P.C. The allegations against the applicants are vague.

8. Learned counsel for the applicants has further stated that the applicant no.2- Mohit Kumar had filed a petition under Section 156(3) Cr.P.C. before the C.J.M., Shahjahanpur against the informant and his family members under respective sections regarding the same incident, as such, the applicants are entitled for anticipatory bail. The applicants have apprehension of their arrest. Learned counsel has stated that the applicants undertake that they have co-operated in the investigation and are ready to do so in trial also failing which the State can move appropriate application for cancellation of anticipatory bail.

9. Per contra, learned A.G.A. has vehemently opposed the anticipatory bail application and stated that there being a cross-case and co-accused persons have already been arrested and in the light of paragraph-43 of the settled law of this Court in **Shivam vs. State of U.P. and Another** reported in **AirOnline 2021 All 484**, the applicants are not entitled for anticipatory bail.

10. After hearing learned counsels for the parties, considering the fact that applicant no.2 is the husband and applicant no.1 is the brother-in-law of the deceased person and also taking into consideration the judgment of this Court passed in **Shivam (supra)**, I do not find it a fit case to grant anticipatory bail to the applicants.

11. The present anticipatory bail application is hereby found devoid of merits and is, accordingly, **rejected**.

12. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of anticipatory bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 17.11.2023

Vikas

[Krishan Pahal, J.]