

Court No. - 73

**Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12158 of 2023**

Applicant :- Om Prakash

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

Counsel for Applicant :- Pankaj Dwivedi

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
2. This application has been moved on behalf of the applicant **Om Prakash** seeking anticipatory bail in Case Crime No. 247 of 2023, under Sections 498A, 323, 304B IPC and Section 3/4 D.P. Act, Police Station- Shamshabad, District- Agra.
3. The deceased, Renu, daughter of the informant was subjected to cruelty and harassment on account of additional dowry. She was physically and mentally tortured by her in-laws and the informant tried to mitigate the circumstances but subsequently dowry death of the daughter was caused. FIR was lodged on 5.9.2023 and investigation started, which is going on.
4. It is submitted by the learned counsel for the applicant that the applicant is innocent and has no concern with the present matter. Allegations levelled against the applicant are false. It is further argued that investigation is going-on and till date no charge-sheet has been submitted against the accused applicant. It is further submitted that the present applicant is the father-in-law of the deceased. The deceased was never tortured or harassed in her matrimonial house for demand of additional dowry. It is also submitted that this was the second marriage of the deceased. On several occasions her in-laws tortured her for demand of additional dowry and she was also beaten by them. It is also submitted that the neighbours, who are the witnesses of this case have not been supported the prosecution case during investigation. It is also submitted that all the in-laws of the deceased implicated in this matter. It is also submitted that as a matter of fact a mutual divorce took place between the deceased and her first husband Satya Prakash and as per condition of divorce the said Satya Prakash

paid Rs.8 lacs to the deceased as permanent alimony through a bank draft and there was a dispute between the deceased and her own father in respect of that money. The deceased was not ready to share the aforesaid amount with her father and there was a quarrel between them for the same and that was the reason she committed suicide by hanging. It is further submitted that in the post mortem report the cause of death has been found asphyxia due to ante mortem hanging. It is lastly submitted that in case applicant is granted anticipatory bail, he will not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. opposed the prayer for anticipatory bail. It is vehemently argued that there was no dispute between the deceased and her father regarding the sharing of the money which was given to her by her first husband as permanent alimony on her divorce. It is further submitted that the death of the deceased has been caused in her own matrimonial house by hanging and there was no occasion for the deceased to commit suicide even if there was a dispute between her and her father. It is further submitted that within seven years of marriage the death of the deceased has been occurred in her matrimonial house otherwise than in normal circumstances and there is ample evidence on record collected by the I.O. that she was subjected to cruelty and harassment for want of additional dowry by her in-laws including the present applicant.

6. It is a case of dowry death of a young lady. The death has been occurred in the house of the present applicant. During investigation ample evidence has been collected so far.

7. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has settled held that while considering an application for grant of anticipatory bail, the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence including intimidating witnesses, likelihood of fleeing justice, such as leaving the country, etc. It has further been held that Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion.

8. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any

opinion of the merits of the case, I deem it not a fit case to grant anticipatory bail to the present applicant. Prayer made in the application is refused.

9. The anticipatory bail application is **rejected**.

Order Date :- 24.11.2023

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