

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12252 of 2023

Applicant :- Smt. Sita Devi

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

Counsel for Applicant :- Ravindra Kumar Mishra, Radhey
Shyam Dwivedi

Counsel for Opposite Party :- G.A., Akarsh
Dwivedi, Sheeladitya Harshvardhan

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Ravindra Kumar Mishra, learned counsel for the applicant, Sri Sheeladitya Harshvardhan, learned counsel for the informant and Sri S.P. Pandey, 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 applicant in Case Crime No.191 of 2023, registered under Sections 498A, 323, 304B IPC and 3/4 D.P. Act at Police Station- Shankargarh, District Prayagraj with a prayer to enlarge her on anticipatory bail.
4. As per prosecution story, the marriage of the daughter of the informant was solemnized with the son of the applicant Devendra Verma as per Hindu Rites on 14.05.2021. The applicant and other family members are stated to have subjected her to cruelty for demand of dowry and are even stated to have entered into an altercation with her on 09.07.2023. The deceased was pregnant by eight months and was thrown on the railway line, whereby she was run over by the train and expired as such in the night of 9/10.07.2023.
5. Learned counsel for the applicant has stated that the applicant is the mother-in-law of the deceased and has been falsely implicated in the present case. Initially, the FIR was instituted under Sections 498-A, 323 and 304-A IPC and 3/4 D.P. Act and subsequently, the allegations have been escalated to that of Section 304-B IPC instead of Section 304-A IPC. Learned counsel has further stated that the applicant, being a lady, is entitled for anticipatory bail. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against her. The circumstances which,

as per counsel, led to the false implication of the applicant have also been touched upon at length. There are no criminal antecedents of the applicant. The applicant has apprehension of her arrest. Learned counsel for the applicant undertakes that she has co-operated in the investigation and is ready to do so in trial also failing which the State can move appropriate application for cancellation of anticipatory bail.

6. Per contra, learned counsel for the informant and learned A.G.A. have vehemently opposed the anticipatory bail application on the ground that the husband of the applicant is posted as Home Guard in the office of Police Commissioner, Prayagraj and as such, under his influence, the FIR could not be instituted and after much persuasion, the same was instituted under Section 304-A IPC only. Learned counsel for the informant has further stated that the said fact speaks volume of the flout of the applicant and her family.

7. The case of son of the applicant Devendra Verma stands distinguished to the applicant.

8. On due consideration to the arguments advanced by learned counsel for the applicant as well as learned A.G.A. and considering the nature of accusations and antecedents of the applicant, and also considering the fact that the applicant is the mother-in-law of the deceased, the applicant is liable to be enlarged on anticipatory bail in view of the judgment of Supreme Court in the case of "*Sushila Aggarwal Vs. State (NCT of Delhi)*, (2020) 5 SCC 1". The future contingencies regarding the anticipatory bail being granted to applicant shall also be taken care of as per the aforesaid judgment of the Apex Court.

9. In view of the above, the anticipatory bail application of the applicant is allowed. Let the accused-applicant- **Smt. Sita Devi** be released forthwith in the aforesaid case crime (supra) on anticipatory bail till the conclusion of trial on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

- (i). that the applicant shall make herself 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 her 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 the previous permission of the court;
- (iv). that in case charge-sheet is submitted 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;

(vii). that in case of breach of any of the above conditions the court concerned shall have the liberty to cancel the bail.

10. It is made clear that observations made hereinabove are exclusively for deciding the instant anticipatory bail application and shall not affect the trial.

Order Date :- 20.11.2023

Ravi Kant

(Krishan Pahal, J.)