

**Court No. - 73**

**Case :-** CRIMINAL MISC ANTICIPATORY BAIL  
APPLICATION U/S 438 CR.P.C. No. - 12338 of 2023

**Applicant :-** Sultan

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

**Counsel for Applicant :-** Hemant Sharma

**Counsel for Opposite Party :-** G.A.

**Hon'ble Nalin Kumar Srivastava,J.**

1. This application has been moved on behalf of the applicant **Sultan** seeking anticipatory bail in Case Crime No. 584 of 2023, under Section 306 IPC, Police Station Sikandrabad, District Bulandshahr.

2. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

3. It is alleged in the F.I.R. that the accused applicant, who is brother-in-law (Jeth) of the deceased, was having a bad eye upon her and used to make eve-teasing with her and was also trying to drag her in the field of immoral trafficking. The deceased was very much perturbed with that and she had prepared a video also expressing her wish to commit suicide and same was sent to the informant. Subsequently, she actually committed suicide and F.I.R. was lodged against three named accused persons by the informant, the brother of the deceased, on 10.9.2023, investigation started, which is still going on.

4. It is submitted by the learned counsel for the applicant that applicant is innocent and he has apprehension of his arrest in the above-mentioned case, whereas there is no credible evidence against him. Allegations levelled against the applicant are false. There was no abetment or instigation on the part of the applicant to the deceased to commit suicide. Applicant is the brother-in-law (Jeth) of the deceased and as a matter of fact there was a dispute between the applicant and the husband of the deceased regarding the share in ancestral property and after getting his share the applicant was living separately with his wife and he had no concern with the deceased and her husband and in this way the applicant had no occasion to visit the house of the deceased and to make any eve-teasing with her or to make any attempt to outrage her modesty and this fact has been affirmed by Aash Mohd. @ Ashu, the husband of the deceased in his statement under Section 161 CrPC. It is further submitted

that no specific role has been assigned to the applicant in the F.I.R. and also in the statement under Section 161 CrPC given by the deceased to the I.O. of the case. It is also submitted that the applicant is a psychiatric patient and has been under treatment for the same for a period of about three years. It is further submitted that no complaint was ever made by the deceased in respect of the indecent behaviour and conduct of the applicant prior to the filing of the F.I.R.. It is also submitted that the alleged video is a concocted piece of evidence and the essential ingredients of the offence under Section 306 IPC are completely missing in this case. The applicant has no criminal history. The investigation of the case is going on and the applicant is cooperating with the same. It has been submitted that in case applicant is granted anticipatory bail, he shall not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. opposed the prayer for anticipatory bail and submitted that during investigation sufficient and ample evidence has been collected against the applicant to the effect that the deceased was abetted by the applicant to commit suicide. He was continuously harassing the deceased. In fact the present applicant and his wife often made indecent comment upon the character and dignity of the deceased and alleged her to be a call girl and that way they have insulted and humiliated and also lower down the dignity of the deceased in the society and the conduct of the applicant and her wife made the deceased perturbed and disturb. The humiliation caused by the applicant was a major set back for her. It is further submitted that the video prepared by the deceased and sent to the informant was also handed over by the informant to the I.O. of the case and the I.O. had seen the said video wherein specific allegations have been levelled by the deceased against the present applicant and his wife and she had also expressed her wish to commit suicide being perturbed by the indecent behaviour of the present applicant and the said video kept in the pen-drive has been made part of the case diary. It is also submitted that the deceased had absolutely no reason to commit suicide unless she was abetted/ instigated by the applicant.

6. I have considered the rival submissions made by the learned counsel for the parties.

7. From the perusal of the record it reveals that during investigation evidence has been collected to the effect that present applicant and his wife often used to make indecent comments upon the character and dignity of the deceased and the conduct of the applicant caused a deep mental agony to the deceased. Video prepared by the deceased had been seen by the I.O. wherein specific allegations have been levelled by the

deceased against the present applicant and his wife and she had also expressed her wish to commit suicide feeling anguished by the indecent behaviour of the present applicant.

8. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has 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.

9. In **Ude Singh and Others Versus State of Haryana, (2019) 17 Supreme Court Cases 301**, it has been held by the Hon'ble Apex Court that -

"16.1. For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above-referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of Section 306 IPC.....However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide."

10. In the peculiar facts and circumstances of the case, humiliation and harassment caused to the deceased by the present applicant, may be taken as an abetment to the deceased to commit suicide.

11. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant, all attending

facts and circumstances of the case and the fact that his continuous course of conduct which created a situation leading the deceased perceiving no other option except to commit suicide and also the fact that the allegations are serious in nature, without expressing any opinion on the merits of the case, in my view, it is not a fit case for anticipatory bail to the applicant. Prayer made in the application is refused.

12. The application is **rejected**.

**Order Date :- 21.11.2023**

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