

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12241 of 2023

Applicant :- Rafeek And 3 Others

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Shyam Kishore Tripathi,A.C.Tiwari(Ac)

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. Heard learned counsel for the applicants, learned A.G.A. for the State and perused the material placed on record.
2. The instant application has been filed with a prayer to enlarge the applicants **Rafeeq, Smt. Guddan, Israil** and **Smt. Bhoori** on anticipatory bail in Case Crime No.57 of 2023, under Sections-498A, 304B I.P.C. and Sections 3/4 of Dowry Prohibition Act, Police Station- Kharela, District- Mahoba.
3. The named accused persons including the present applicants used to torture the deceased for demand of additional dowry and she was also subjected to cruelty and harassment on account of the same and subsequently her dowry death was caused. F.I.R. was lodged on 1.7.2023 and investigation started, which is still going on.
4. Learned counsel for the applicants has submitted that co-accused person, Hasan, Smt. Jareena and Sadik Ali have already been granted anticipatory bail by Co-ordinate Bench of this Court vide orders dated 27.10.2023 and 17.11.2023 passed in Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. Nos.11702 of 2023 and 11691 of 2023, respectively. Therefore, the present applicants, who are cousin father-in-law and cousin mother-in-law (chachiya sasur and chachiya saas) of the deceased, are also entitled for anticipatory bail on the ground of parity. Learned counsel for the applicants undertakes that they will cooperate in the investigation/trial, failing which the State can move appropriate application for cancellation of the anticipatory bail.
5. The prayer for anticipatory bail has been vehemently opposed by learned A.G.A. However, the aforesaid factual aspect of the parity to the co-accused has not been disputed by him.

6. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, and in light of the judgement passed by this Court in **Nanha S/o Nabhan Kha vs. State of U.P., 1993 CrI.L.J. 938** and the judgement passed by the Apex Court in **Paras Ram Vishnoi vs. The Director, Central Bureau of Investigation, MANU/SCOR/22410/2021**, without expressing any opinion on the merits of the case, the Court is of the view that the applicants have made out a case for anticipatory bail till submission of police report under Section 173(2) CrPC before the Competent Court.

7. In view of the above, the anticipatory bail application of the applicants is **allowed** accordingly.

8. In the event of arrest of the applicants in the aforesaid case crime, they shall be released on anticipatory bail on their furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the Station House Officer concerned with the following conditions :-

1. The applicants shall make themselves available for interrogation by a police officer as and when required.

2. The applicants 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 them from disclosing such facts to the Court or to any police officer or tamper with the evidence.

3. The applicants shall not pressurize/ intimidate the prosecution witness.

4. The applicants shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are suspected.

5. The applicants shall not leave India without the previous permission of the Court and if they have passport, the same shall be deposited by them before the S.S.P./S.P. concerned.

9. In case of breach of any of the above conditions, the Investigating Officer shall be at liberty to file appropriate application for cancellation of anticipatory bail of applicants in accordance with law.

Order Date :- 28.11.2023

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