

Court No. - 72

**Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12553 of 2023**

Applicant :- Vipin Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Vijay Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Vijay Pratap Singh, learned counsel for the applicant, Sri Pankaj Bharti, 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 FIR No.157 of 2023 registered under Sections 498A, 323, 304B IPC and 3/4 D.P. Act at Police Station- Meerapur, District Muzaffar Nagar with a prayer to enlarge him on anticipatory bail.
4. As per prosecution story, the two sisters are stated to have been married to the two real brothers including the applicant. The applicant is the husband of the elder sister of the deceased person. The marriage of the deceased person was solemnized with the brother of the applicant Nitin as per Hindu Rites on 07.05.2021. The applicant and other family members are stated to have subjected her to cruelty for demand of dowry of Rs.10 lakhs and a car and are even stated to have caused her death within the precincts of their house on 13.04.2023 at about 6:30 p.m.
5. Learned counsel for the applicant has stated that the applicant has been falsely implicated in the present case. The FIR is delayed by about four months and there is no explanation of the said delay caused. Even the application under Section 156(3) Cr.P.C. has been moved on 18.07.2023 before the Magistrate concerned. Learned counsel has further stated that the cause of death, as per autopsy report, is asphyxia as a result of hanging.
6. Learned counsel for the applicant has further stated that the deaf and dumb sister of the deceased is leading a happy married life with the applicant, thus the applicant has been made an

accused only on behalf of relation with the co-accused person Nitin. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. 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 his arrest. Learned counsel for the applicant undertakes that he 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.

7. Per contra, learned counsel for the informant and learned A.G.A. have vehemently opposed the anticipatory bail application on the ground that to date the statement of the sister of the deceased person, who is the wife of the applicant, could not be recorded as she is deaf and dumb and she does not live with the applicant rather she is undergoing her treatment somewhere in Punjab.

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, 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- **Vipin Kumar** be released forthwith in the aforesaid case crime (supra) on anticipatory bail till the conclusion of trial on furnishing a personal 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 himself 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 him 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 :- 22.11.2023

Ravi Kant

(Krishan Pahal, J.)