

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12720 of 2023

Applicant :- Smt. Sarthi @ Swartha Devi

Opposite Party :- State of U.P.

Counsel for Applicant :- Nirbhay Singh

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Nirbhay Singh, learned counsel for the applicant 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.582 of 2023, registered under Sections 326 and 504 IPC at Police Station-Kasganj, District Kasganj with a prayer to enlarge her on anticipatory bail.
4. As per prosecution story, the husband of the applicant Yogendra is stated to have thrown a bomb on the son of the informant Ashish on 04.10.2022, thereby causing grievous injuries to him whose treatment was taken up in a hospital at Aligarh whereby a heavy amount was spent to save his life. The applicant, who happens to be the wife of co-accused person Yogendra, alongwith her husband had promised to pay that amount. On demanding the said amount, the applicant and her husband are stated to have hurled abuses at her and refused to give the said amount beside assaulting her.
5. Learned counsel for the applicant has stated that the applicant has been falsely implicated in the present case owing to her relation with co-accused person Yogendra. As far as the initial incident of assault by bomb is concerned, the FIR is delayed by four months and there is no date and time mentioned regarding the said offence assigned to the applicant. The applicant, being a lady, having no criminal antecedents 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. 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 A.G.A. has vehemently opposed the anticipatory bail application but unable to dispute the submissions raised by the learned counsel for the applicant.

7. 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.

8. In view of the above, the anticipatory bail application of the applicant is allowed. Let the accused-applicant- **Smt. Sarthi @ Swarthi 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.

9. 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.)