

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 12753 of 2023

Applicant :- Rasida Bano

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashutosh Kumar Singh, Arvind Singh Patel

Counsel for Opposite Party :- G.A., Javed Alam

Hon'ble Nalin Kumar Srivastava, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
2. This application has been moved on behalf of the applicant **Rasida Bano** seeking anticipatory bail in Case Crime No. 251 of 2023, under Sections 498A, 323, 506, 304B I.P.C. & 3/4 D.P. Act, Police Station- Ghoorpur, District- Prayagraj.
3. Anjum Bano, the sister of the informant was married with Kamran Ali @ Guddu but her in-laws were not satisfied with the dowry given in their marriage and she was subjected to cruelty and harassment for demand of additional dowry and ultimately her dowry death was caused by her in-laws. FIR was lodged on 20.07.2023 and investigation started, which is going on.
4. It is submitted by the learned counsel for the applicant that the applicant is innocent and has no concern with the present matter. Allegations levelled against the applicant are false. It is further submitted that investigation is going-on and till date no charge-sheet has been submitted against the accused applicant. It is further submitted that no demand of additional dowry was ever made by the in-laws of the deceased and she was never torture by any of her in-laws. It is further submitted that the FIR of this case has been lodged for some ulterior motive to grab the money from the poor in-laws of the deceased. It is further submitted that during five years of marriage no complaint was ever made by the informant side anywhere in respect of the alleged demand of dowry or cruelty caused to the deceased. It is also submitted that in the post mortem report of the deceased no external injury has been found by the doctor except ligature mark in the neck of the deceased. The cause of death is asphyxia due to ante mortem hanging. It is further submitted that the applicant was living separately from the deceased, daughter-in-law and her son and she has absolutely no concern with the alleged suicide committed by the deceased. It is

also submitted that Ajmat Ali, father-in-law and Nazim Ali, brother-in-law of the deceased have been enlarged of regular bail by the Sessions Judge. It is also submitted that the applicant is an old lady, she is the mother-in-law of the deceased. She has been cooperative with the investigation so far and is entitled for anticipatory bail. It is lastly submitted that in case applicant is granted anticipatory bail, she will not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. opposed the prayer for anticipatory bail. It is vehemently submitted that ample and sufficient evidence has been collected by the I.O. during course of investigation in respect of dowry death caused by the in-laws of the deceased. It is further submitted that the story of separate living of the applicant is totally false and fabricated. It is also submitted that the dowry death of the deceased has been caused within seven years of her marriage for demand of dowry otherwise than in normal circumstances. It is also submitted that the death has been occurred in the house of the present applicant and no plausible explanation has been given by the applicant in respect of abnormal death of her daughter in law.

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

7. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, I deem it not a fit case to grant anticipatory bail to the present applicant. Prayer made in the application is refused.

8. The anticipatory bail application is **rejected**.

Order Date :- 6.12.2023//Fhd