

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12830 of 2023

Applicant :- Premwati

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajesh Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Rajesh Kumar Mishra, learned counsel for the applicant and Sri Anit Kumar Shukla, 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 F.I.R./Case Crime No. 189 of 2023, under Section 306 of IPC, Police Station- Katghat, District- Moradabad, with a prayer to enlarge her on anticipatory bail.
4. As per prosecution story, the applicant, her husband and daughter Pinki are stated to have abetted the deceased to commit suicide as they had passed indecent remarks regarding illicit relationship, as such, the daughter of the informant committed suicide by hanging on 22.4.2023 and on the same day, FIR was instituted. A suicide note was also recovered which indicated the fact that she has been maligned in the society by the applicant and his family members.
5. Learned counsel for the applicant has stated that the applicant has been falsely implicated in the present case. She has nothing to do with the said offence as alleged by the prosecution. No ingredients of Section 107 IPC are attracted as no overt act has been assigned in the said suicide note even it has not been mentioned as to what words have been narrated by the applicant to the deceased person. Learned counsel has further stated that earlier on, the FIR was instituted against the applicants and other co-accused persons by the same informant regarding having assaulted him and his family members by barging into his house on 11.04.2023 at about 09:00 PM. The applicant could not apply for

bail in the said case as police is chasing her after the institution of present FIR. Learned counsel has further stated that the co-accused Tejpal has been enlarged on regular bail by this Court passed in Criminal Misc. Bail Application No. 26744 of 2023 vide order dated 27.09.2023, as such, the applicant is entitled for anticipatory bail being a lady.

6. Per contra, learned AGA has vehemently opposed the anticipatory bail of the applicant on the ground that the said criminal history of one case i.e. FIR No.163 of 2023 has not been explained properly. The co-accused Tejpal has been enlarged on regular bail and not on anticipatory bail, as such, she is not entitled for anticipatory bail.

7. Considering the facts and circumstances of the case and also the arguments advanced by the learned counsel for the parties, this Court finds that there were allegations of abetment of suicide coupled by the fact that there is a criminal history of one case assigned to the applicant which has not been explained, I do not find it a fit case for granting the anticipatory bail to the applicant. The arguments tendered at bar pertain to regular bail application and cannot be agitated u/s 438 Cr.P.C.

8. In view of the above, the present anticipatory bail application is rejected.

(Justice Krishan Pahal)

Order Date :- 22.11.2023
Siddhant