

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12945 of 2023

Applicant :- Dharmpal Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- A.K. Mishra

Counsel for Opposite Party :- G.A.

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 - **Dharmpal Yadav** seeking anticipatory bail in Case Crime No. 168 of 2023, under Sections 498-A, 304-B IPC and Section 3/4 Dowry Prohibition Act, Police Station Phaphamau, District Prayagraj.

3. It is alleged in the F.I.R. that the marriage of the deceased Sandhya, the daughter in law of the applicant, was solemnized with Guddu Yadav on 28.6.2020. After the marriage, she was subjected to cruelty and harassment by her in-law for demand of additional dowry. She gave birth of two daughters also out of their wedlock and subsequently on 26.7.2023 her dowry death was occurred and F.I.R. was lodged under Sections 498-A, 304-B IPC and 3/4 Dowry Prohibition Act on 27.7.2023 and investigation started, which is still going on.

4. Learned counsel for the applicant submits that that applicant is innocent and he has apprehension of arrest in the above-mentioned case, whereas there is no credible evidence against him. He has been falsely implicated in this matter. Allegations levelled against the applicant are false. Investigation is going on into the matter and the applicant is cooperating with the same. It is further submitted that the present applicant has absolutely no role in the death of the deceased. It is further submitted that the applicant has five sons and all of them live separately and one son has died. Applicant uses to live with his elder son and not with the deceased and her husband. It is also submitted that only general allegations have been levelled in the F.I.R. and no specific allegation has been made against the present applicant. It is also submitted that the father of the deceased was also present at the time of the inquest

and has been an inquest witness but he never made any complaint regarding the dowry death at the time of inquest proceedings. It is further submitted that cause of death of the deceased as per post mortem report is asphyxia due to ante mortem hanging. It is also submitted that no ingredients of dowry death exist in this case. Applicant is an old ailing person and no complaint was ever made by the deceased or her family members in respect of cruelty and harassment caused to her by her in-laws. It is also submitted that the information regarding the death of the deceased was sent by the family member of the applicant. Applicant has no criminal history to his credit.

5. Learned A.G.A. opposed the prayer for anticipatory bail and it has been submitted that the applicant, who is the father in law of the deceased, in order to save himself, has created the defence evidence on the basis of forged and false documents of separate living. The certificate of Corporator in respect of separate living of the present applicant does not form part of the case diary. The family members of the deceased have supported the prosecution version in clear terms in their statements under Section 161 CrPC. It is also submitted that the unfortunate death of the young deceased has been occurred in her matrimonial house and the present applicant being the father in law cannot escape his liability. No reasonable explanation has been offered by the applicant as to how and in what circumstances the death of the deceased occurred. It is also submitted that the deceased had two minor daughters and she had no occasion to commit suicide if everything was normal in her matrimonial house.

6. In this case, it appears from the perusal of the record that the deceased was regularly being subjected to harassment and cruelty by her in-laws including the present applicant for demand of additional dowry, which continued till her death and ultimately her death occurred otherwise than in normal circumstances.

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

8. 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, in my view, it is not a fit case for anticipatory bail to the applicant till the end of trial. The prayer made in the application is refused.

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

Order Date :- 24.11.2023

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