

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12966 of 2023

Applicant :- Manoj

Opposite Party :- State Of U.P. And Another

Counsel for Applicant :- Sandeep Kumar Srivastava

Counsel for Opposite Party :- G.A.,Sunder Singh

Hon'ble Nalin Kumar Srivastava,J.

1. Supplementary affidavit filed in the matter is taken on record.
2. This application has been moved on behalf of the applicant - **Manoj** seeking anticipatory bail in Case Crime No.255 of 2023, under Sections 498-A, 304-B IPC and Section 3/4 Dowry Prohibition Act, Police Station Bachharayun, District J.P. Nagar (Amroha).
2. Heard learned counsel for the applicant, learned A.G.A. for the State as well as learned counsel for the informant / opposite party no.2 and perused the record.
3. The brief fact of the case is that on 12.09.2023, the informant of the case lodged an F.I.R. against the present applicant and other co-accused persons with regard to incident occurred on 12.9.2023 with the allegation that the accused persons firstly committed murder of her sister and thereafter threw her dead body from the roof in her matrimonial house on account of additional demand of dowry. Investigation started into the matter, which is going on.
4. It has been argued by the learned counsel for the applicant that applicant is innocent and he has apprehension of his arrest in the above-mentioned case, whereas there is no credible evidence against them. He has been falsely implicated in this matter. Allegations levelled against the applicant are false. It is further submitted that the applicant is the jeth of the deceased and has no concern with the present matter. It is also submitted that due to menace of monkeys in the locality, the deceased fell down from the roof. It is an accidental case which has been given a colour of criminal case. It is further submitted that no cruelty, torture or harassment has been caused to the deceased by the applicant on account of additional demand of dowry. Only being a jeth of the

deceased, the applicant has been dragged in this case. It is also submitted that the applicant has been cooperative during the course of investigation so far and as such the applicant is entitled for anticipatory bail.

5. Per contra, learned A.G.A. as well as learned counsel for the informant / opposite party no.2 vehemently opposed the prayer for anticipatory bail and it has been submitted that in the postmortem report of the deceased, seven injuries have been found on her person and the cause of death has been shown as shock and haemorrhage due to antemortem injuries. It is also submitted that that brother of the deceased in his statement given to the I.O. under section 161 Cr.P.C. has categorically stated that after marriage of her sister, the accused persons including the present applicant started demanding additional dowry from the deceased and her family members and she was also subjected to cruelty and harassment by them. It is further submitted that the present accused applicant, being the jeth of the deceased, had played active role in the commission of the crime. The death of the deceased has been caused otherwise than seven years in her matrimonial house. The offence committed by the accused is very grievous and heinous in nature and as such, he is not entitled for anticipatory bail.

6. There are ample evidence that the deceased was subjected to cruelty and harassment on account of additional demand of dowry by the accused persons including the present applicant and admittedly her death has been caused within seven years of her marriage under otherwise than normal circumstances. Several injuries have been found on the person of the deceased in the postmortem conducted by the doctor.

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 and also keeping in view the seriousness and gravity of the offence, 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 the trial.

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

Order Date :- 24.11.2023

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