

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 13064 of 2023

Applicant :- Shanti Devi

Opposite Party :- State of U.P.

Counsel for Applicant :- Raghubir Singh, Shiv Raj Singh

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Raghubir Singh, learned counsel for applicant as well as Sri Ashutosh Srivastava, learned A.G.A. for State and also perused the material available on record.
3. The present application for anticipatory bail has been filed for protection in regard to FIR/Case Crime No. 65 of 2003, under Sections 498-A, 304-B I.P.C. and 3/4 D.P. Act, P.S.- Ghiror, District- Mainpuri.
4. As per prosecution story, the marriage of the son of the applicant was solemnized with the daughter of the informant as per Hindu rites on 21.2.2002. The applicant and other family members are stated to have subjected her to cruelty for a demand of colour television, refrigerator, washing machine, cash etc. leading to her death on 29.1.2003 within the precincts of her house.
5. Learned counsel for the applicant has stated that the applicant has been falsely implicated in the present case. Learned counsel has further stated that the cause of death is due to shock as a result of ante-mortem burn injuries. Learned counsel has also stated that the informant was panch witness no. 1 to the inquest proceedings taken up on 30.1.2003 itself. There is no dying declaration of the deceased recorded. Learned counsel has also stated that the investigation was taken up and the police was pleased to file a closure report in it twice. The applicant is an age old lady having no criminal history to her credit. The applicant is the month-in-law of the deceased person. It is also stated that the applicant and other co-accused persons had filed a petition u/s 482 Cr.P.C. No. 5882 of 2006 and were granted interim protection in it, but subsequently, the same was disposed of vide order dated 15.5.2018 partly allowing

it, although it was not allowed qua the applicant. In case, the anticipatory bail application of the applicant is allowed, she will not misuse the liberty and shall cooperate with trial.

6. Per contra, learned A.G.A. has vehemently opposed the prayer for anticipatory bail on the ground that the said impugned order was also passed in the year 2018, as such, the applicant has not cooperated in trial and more than five years have passed since then. Learned A.G.A. has placed reliance on the judgement of this Court passed in *Shivam Vs. State of U.P. and Another*, reported in *AIROnline 2021 All 484*.

7. Considering the rival submissions advanced by the learned counsel for the parties, the judgement passed in *Shivam (supra)*, coupled with the fact that more than five years have passed since the disposal of the petition u/s 482 Cr.P.C., I do not find it a fit case for grant of anticipatory bail to the applicant as the arguments advanced by learned counsel for the applicant pertain to regular bail application and cannot be agitated at this stage u/s 438 Cr.P.C.

8. In view of the above, the present anticipatory bail application is found devoid of merits and is, accordingly, **rejected**.

9. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of anticipatory bail application and the said observations shall have no bearing on the merits of the case.

(Justice Krishan Pahal)

Order Date :- 28.11.2023

Shalini