

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 13025 of 2023

Applicant :- Smt. Khushboo

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Kuldeep Singh Yadav

Counsel for Opposite Party :- G.A.,Dhirendra Kumar
Verma,Renu Swarnkar

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 **Smt. Khushboo** seeking anticipatory bail in Case Crime No. 107 of 2022, under Sections 306, 506 IPC, Police Station Jasrana, District Firozabad.
3. It is alleged in the F.I.R. that the husband of the present applicant committed the suicide on 16.03.2022 by way of hanging. He was very much perturbed and disturbed with the intimate relations of his wife with some Ankit Yadav and she was not ready to leave him despite several requests made by her in-laws and husband. However, her husband was also called on telephone on 15.03.2022 by the said Ankit, who had threatened him for dire consequences and in these circumstances, the deceased committed suicide by way of hanging and an F.I.R. was lodged on 23.03.2022 and investigation started, which is still 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 argued that investigation is going-on and till date no charge-sheet has been submitted against the accused applicant. It has been submitted that in case applicant is granted anticipatory bail, she shall not misuse the liberty of bail and would obey all conditions of bail.
5. It is further submitted that due to previous animosity, the present applicant has been falsely implicated in this case. It is next submitted that as a matter of fact, the father of the deceased, who is father-in-law of the applicant also tried to outrage her modesty

and tried to make physical relations with her and when she disclosed the matter to her husband it caused annoyance to her husband and this led him to commit suicide. It is next submitted that the independent witnesses of this case did not support the prosecution version. It is further submitted that the present applicant is a lady and she has been cooperative with the investigation of the case so far. It is further submitted that the essential ingredients to constitute the offence under Section 306 I.P.C. are completely missing in this case and as such, she is entitled for anticipatory bail.

6. Learned A.G.A. opposed the prayer for anticipatory bail and it has been submitted that the applicant had some objectionable relations with one Ankit and used to make long chats with him and she was not ready to leave the said Ankit despite several requests made by her husband. It is further submitted that the ample evidence has been collected by the I.O. during the course of investigation and it was found that they used to engage in long chats and the applicants was having extra marital relations with him. It is next submitted that there was no false implication. It is next submitted that in the post mortem report, the death occurred due to asphyxia as a result of ante mortem hanging. It is further submitted that it was the indecent conduct of the applicant which was continued for a long time and ultimately led the deceased to commit suicide.

*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. In *Ude Singh and Others Versus State of Haryana, (2019) 17 Supreme Court Cases 301*, it has been held by the Hon'ble Apex Court that -

"16.1. For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above-referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of accused is

otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of Section 306 IPC.....However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide."

9. In the peculiar facts and circumstances of the case, since the applicant had some objectionable relations with one Ankit and used to make long chats with him and she was not ready to leave the said Ankit despite several requests made by her husband, the deceased, and she was having extra marital relations with him, therefore, the torture and harassment caused to the deceased by the present applicant, may be taken as an abetment to the deceased to commit suicide, which led the deceased to the state of committing suicide leaving no other option to him.

10. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant, all attending facts and circumstances of the case and the fact that his continuous course of conduct which created a situation leading the deceased perceiving no other option except to commit suicide and also the fact that the allegations are serious in nature, without expressing any opinion on the merits of the case, in my view, it is not a fit case for anticipatory bail to the applicant. Prayer made in the application is refused.

11. The application is **rejected**.

Order Date :- 11.12.2023/Shivangi