

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 13295 of 2023

Applicant :- Sushil Kumar @ Sushil Kumar Bind

Opposite Party :- State of U.P.

Counsel for Applicant :- Vinod Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Vivekanand, Advocate holding brief of Sri Vinod Kumar, 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 Case Crime No.106 of 2023, registered under Sections 323, 313, 427, 498-A IPC and Section 3/4 Dowry Prohibition Act at Police Station- Chilh, District Mirzapur with a prayer to enlarge him on anticipatory bail.
4. As per prosecution story, the marriage of the informant was solemnized with the applicant as per Hindu Rites on 16.04.2019 and the applicant and other family members are stated to have subjected her to cruelty for demand of dowry of Rs.5 lakhs, golden chain, double bed and a motorcycle etc., thereby are stated to have assaulted her and caused injuries to her on 15.01.2023, as such she was rendered unconscious, but the matter was settled between the parties and the informant started living in the family of her in-laws since 09.06.2023 in the light of the compromise dated 23.01.2023 and again on 27.08.2023 and 28.08.2023, the applicant and other family members are stated to have beaten her up for the said demand of dowry.
5. Learned counsel for the applicant has stated that the applicant has been falsely implicated in the present case. There are no allegations of medical termination of pregnancy in the FIR, but the same have been added later on. Learned counsel has further stated that it was true that the victim got pregnant and the said fetus was aborted. In the statement of the victim, recorded under Section 161 Cr.P.C., she has later on stated that it was the applicant who had given her some medicine which she had to take thrice. After taking it on third time, the same pregnancy is

stated to have been terminated. There is no evidence of forcibly administering any medicine to the victim whatsoever.

6. As a defence, learned counsel for the applicant has stated that on the alleged date of administering medicine, the applicant was employed as Block Mission Manager at Block Sukhrauli, Kushinagar. The present case seems to be just misuse of dowry laws. Learned counsel has further stated that the applicant lives at Kushinagar and the victim does not want to live with her in-laws as the applicant used to somehow help his parents, she got angry at it and has instituted the present FIR.

7. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. There are no criminal antecedents of the applicant. The applicant has apprehension of his arrest. Learned counsel for the applicant undertakes that he has co-operated in the investigation and is ready to do so in trial also failing which the State can move appropriate application for cancellation of anticipatory bail.

8. Per contra, learned A.G.A. has vehemently opposed the anticipatory bail application but unable to dispute the submissions raised by the learned counsel for the applicant.

9. On due consideration to the arguments advanced by learned counsel for the applicant as well as learned A.G.A. and considering the nature of accusations and antecedents of the applicant, the applicant is liable to be enlarged on anticipatory bail in view of the judgment of Supreme Court in the case of "***Sushila Aggarwal Vs. State (NCT of Delhi)***, (2020) 5 SCC 1". The future contingencies regarding the anticipatory bail being granted to applicant shall also be taken care of as per the aforesaid judgment of the Apex Court.

10. In view of the above, the anticipatory bail application of the applicant is allowed. Let the accused-applicant- **Sushil Kumar @ Sushil Kumar Bind** be released forthwith in the aforesaid case crime (supra) on anticipatory bail till the conclusion of trial on furnishing a personal and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

- (i). that the applicant shall make himself available for interrogation by a police officer as and when required;
- (ii). that the applicant shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to

any police officer or tamper with the evidence;
(iii). that the applicant shall not leave India without the previous permission of the court;
(iv). that in case charge-sheet is submitted the applicant shall not tamper with the evidence during the trial;
(v). that the applicant shall not pressurize/ intimidate the prosecution witness;
(vi). that the applicant shall appear before the trial court on each date fixed unless personal presence is exempted;
(vii). that in case of breach of any of the above conditions the court concerned shall have the liberty to cancel the bail.

11. It is made clear that observations made hereinabove are exclusively for deciding the instant anticipatory bail application and shall not affect the trial.

Order Date :- 02.12.2023
Ravi Kant

(Krishan Pahal, J.)