

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 13355 of 2023

Applicant :- Kaushalendra Singh And 6 Others

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

Counsel for Applicant :- Arvind Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav,J.

1. Heard Sri Arvind Kumar Singh, learned counsel for the applicants and learned Additional Government Advocate for the State.

2. This anticipatory bail application (under section 438 Cr.P.C.) has been moved seeking bail in Case Crime No.133 of 2016, under Sections 498-A, 323, 504, 506 I.P.C. and Section 3/4 D.P. Act, P.S.- Sakrauli, District- Etah.

3. As per allegations, the applicants have demanded dowry and harassed the opposite party no.2.

4. Learned counsel for the applicant submitted that the applicants are jeth of the opposite party no.2, they have been falsely implicated in the present case. It is a no injury case, there is no cruelty and the applicants have never demand any dowry. Learned counsel for the applicant submitted that earlier, the applicants have approached this Court in Application U/S 482 No.10821 of 2018 (Smt. Vindeshri Devi and 6 others Vs. State of U.P. and another) and Application U/S 482 No.6217 of 2018 (Bhoopendra Singh and 4 others Vs. State of U.P. and another) co-ordinate Bench of this Court vide order dated 13.4.2018 and 26.2.2018 stayed the proceedings of the court below. He further submitted that the investigation is going on and till date no charge sheet has been submitted. The applicants have no criminal history. Learned counsel for the applicants further submitted that applicants have apprehension of imminent arrest and in case, applicants are released on anticipatory bail, they will not misuse the liberty and would co-operate with the trial.

5. Learned A.G.A. has opposed the prayer for anticipatory bail of the applicants. He has submitted that in view of the seriousness of the allegations made against the applicants, they are not entitled to grant of anticipatory bail. The apprehension of the applicants is not founded on any material on record. Only on the basis of imaginary fear, anticipatory bail cannot be granted.

6. Hence without expressing any opinion on the merits of the case and considering the nature of accusations and antecedents of applicants, they are directed to be enlarged on anticipatory bail as per the Constitution Bench judgment of the Apex Court in the case of **Sushila Aggarwal vs. State (NCT of Delhi)- 2020 SCC Online SC 98**. The future contingencies regarding anticipatory bail being granted to applicant shall also be taken care of as per the aforesaid judgment of the Apex Court.

7. In the event of arrest, the applicants shall be released on anticipatory bail. Let the applicants- **Kaushalendra Singh, Lakhani Singh, Pritam Singh, Hitendra Singh, Meghendra Singh, Virendra Singh** and **Padam Singh**, involved in the aforesaid case crime be released on anticipatory bail on furnishing a personal bond of Rs.50,000/- with two sureties each in the like amount to the satisfaction of the trial court concerned with the following conditions:-

(i) The applicants shall co-operate with the Investigating Officer during investigation and shall report to the Investigating Officer as and when required for the purpose of conducting investigation.

(ii) The applicants 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 them from disclosing such facts to the Court or to any police officer.

(iii) The applicants shall not leave the country during the currency of trial without prior permission from the concerned trial Court.

(iv) The applicants shall surrender their passport, if any, to the concerned Court forthwith. Their passport will remain in custody of the concerned Court.

(v) The applicants shall file an undertaking to the effect that

they shall not seek any adjournment on the dates fixed for evidence and the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law to ensure presence of the applicants.

(vi) In case, the applicants misuses the liberty of bail, the Court concerned may take appropriate action in accordance with law and judgment of Apex Court in the case of **Sushila Aggarwal vs. State (NCT of Delhi)- 2020 SCC Online SC 98**.

(vii) The applicants shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of their bail and proceed against him in accordance with law.

8. In default or misuse of any of the conditions, the Public Prosecutor/ Investigating Officer/ first informant-complainant is at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicant.

9. With the aforesaid observations/ directions, the application stands **allowed**.

Order Date :- 4.12.2023
Krishna*