

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S
438 CR.P.C. No. - 13927 of 2023

Applicant :- Smt. Vimla

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Ram Shiromani Shukla, Abhinav Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. As informed by learned AGA, notice to the informant has been served on 04.12.2023.
2. Heard Sri Abhinav Shukla, learned counsel for the applicant and Sri Amit Kumar, learned A.G.A. for the State and also perused the record.
3. The present anticipatory bail application has been filed on behalf of the applicant in F.I.R./Case Crime No. 130 of 2023, under Sections 323, 294, 354-A, 354-B, 120-B of IPC and Sections 7/8 of POCSO Act, Police Station Bhuta, District Bareilly, with a prayer to enlarge her on anticipatory bail.
4. As per prosecution story, the FIR was instituted by Smt. Sunita against her husband Sanjeev Singh alleging that he kept an evil eye on her minor daughter. He used to misbehave with her and was also having illicit relationship with the applicant.
5. Learned counsel for the applicant has stated that the applicant is maliciously being prosecuted in the present case due to ulterior motive and has apprehension of her arrest. The applicant has nothing to do with the said offence as alleged by the prosecution. Learned counsel has further stated that although the name of the applicant has come up in the contents of the FIR but she is not named in it. The applicant is stated to be the person with whom the named accused person Sanjeev Singh is stated to have entered into illicit relationship. Learned counsel has also stated that there are ample contradictions in the statement of the witnesses to the FIR. There is no injury report to corroborate the prosecution story. The final report (charge-sheet) has been submitted. It is further submitted that the applicant has no criminal history. In case, the anticipatory bail application of the applicant is allowed, she will not misuse the liberty and shall cooperate with trial.
6. On the other hand, learned A.G.A. has vehemently opposed the prayer for grant of anticipatory bail but unable to dispute the submissions raised by the learned counsel for the applicant.
7. Considering the arguments advanced by the learned counsel for the parties and in view of the law laid down by the Apex Court in the case of "**Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC online SC 98**", the applicant is entitled to be granted anticipatory bail in this case.
8. Without expressing any opinion upon ultimate merits of the case either

ways which may be adversely affect the trial of the case, the anticipatory bail application of the applicant is **allowed**.

9. In the event of arrest of the applicant, **Smt. Vimla** involved in the aforesaid case crime number, shall be released on anticipatory bail till the conclusion of trial on furnishing a personal bond with two sureties each in the like amount to the satisfaction of the Presiding Officer/Court Concerned, with the conditions that:-

- i. that the applicant shall make herself 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 previous permission of the court;
- iv. that 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;

10. In case of breach of any of the above conditions, the court concerned shall have the liberty to cancel the bail granted to the applicant.

11. It is made clear that observations made in granting anticipatory bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 16.12.2023
Siddhant