

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S
438 CR.P.C. No. - 13588 of 2023

Applicant :- Abhinandan Kumar And Another

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Vinay Kumar Sharma,Deepak Singh

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Supplementary affidavit filed by learned counsel for the applicant is taken on record.
3. Heard Sri Deepak Singh, learned counsel for the applicants and Sri Deepak Kumar Singh, learned A.G.A. for the State as well as perused the record.
4. The present anticipatory bail application has been filed on behalf of the applicants in Case Crime No.86 of 2021, registered under Sections 498-A, 323, 504, 406 I.P.C. and 3/4 Dowry Prohibition Act at Police Station- Mahila Thana, District- Gautam Buddha Nagar with a prayer to enlarge them on anticipatory bail.
5. As per prosecution story, the marriage of applicant no.1 was solemnized with the informant as per Hindu Rites on 4.7.2018, and subsequent to it, the parties are stated to have fallen apart. There are particular allegations against the applicants of demanding dowry from her and there are allegations of illicit relationship against the applicant no.1. A baby-girl was born out of the said wedlock.
6. Learned counsel for the applicants has stated that they have been falsely implicated in this case. There are general allegations against all the accused persons. There is no medical evidence whatsoever. The applicants are *bona fide* persons. Learned counsel has stated that the victim is living separately since the year 2019. The allegations are *per se* false. It is a classical example of misuse of dowry laws. It is further stated that there are no criminal antecedents of the applicants.
7. Several other submissions have been made on behalf of the applicants to demonstrate the falsity of the allegations made against them. The circumstances which, as per counsel, led to the false implication of the applicants have also been touched

upon at length. The applicants have apprehension of their arrest. Learned counsel has stated that the applicants undertake that they have co-operated in the investigation and are 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 applicants.

9. On due consideration to the arguments advanced by learned counsel for the applicants as well as learned A.G.A. and considering the nature of accusations and antecedents of the applicants, the applicants are 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 applicants 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 applicants is allowed. Let the accused-applicants- **Abhinandan Kumar** and **Hari Sharan Prasad** be released forthwith in the aforesaid case crime (supra) on anticipatory bail till the conclusion of trial on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

- (i). that the applicants shall make themselves available for interrogation by a police officer as and when required;
- (ii). that 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 or tamper with the evidence;
- (iii). that the applicants shall not leave India without the previous permission of the court;
- (iv). that in case charge-sheet is submitted the applicants shall not tamper with the evidence during the trial;
- (v). that the applicants shall not pressurize/ intimidate the prosecution witness;
- (vi). that the applicants 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 below 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 :- 16.12.2023/ Vikas

[Krishan Pahal, J.]