

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 520 of 2022

Applicant :- Smt. Suman Giri

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko.

Counsel for Applicant :- Manjusha Kapil, Kamlesh Singh

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

Heard Sri Kamlesh Singh, the learned counsel for the applicant and Sri Anant Pratap Singh, the learned A.G.A. on behalf of the Stat and perused the records.

On 06.04.2022, after hearing learned counsel for the applicant and learned A.G.A. for the State this court had passed the following order:

"Heard Ms. Manjusha Kapil, learned counsel for the applicant and learned A.G.A., Sri Vinay Kumar Shahi, for the State as well as perused the record.

The present anticipatory bail application has been filed on behalf of the applicant in F.I.R. No. 0198 of 2021, under Sections 406, 419, 420, 471, 506 Indian Penal Code, Police Station Bakshi Ka Talab, District Lucknow, with a prayer to enlarge her on anticipatory bail.

As per prosecution story, the co-accused persons, Vinod Giri and Abhishek Giri are the father-in-law and husband of applicant respectively, and it is they who are the main accused and are stated to have duped the first informant to the tune of about Rs. 24,00,000/-, and at the eleventh hour, absconded from the scene of getting the sale deed executed. As per the allegations in the FIR, the role of applicant is alleged to have later on taken an amount of Rs. 2,92,000/- in cash and a cheque of Rs. 6,00,000/- is said to have been handed over to the applicant. The case of applicant is distinguishable from the co-accused persons Abhishek Giri and Vinod Kumar Giri.

Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case with a view to cause unnecessary harassment and to victimize her. There is no criminal history of applicant. She is

a housewife and has nothing to do with the day to day engagements of her husband and father-in-law. Learned counsel undertakes that applicant will cooperate in the investigation failing which the State can move appropriate application for vacation of the interim protection.

Learned A.G.A. has opposed the prayer for grant of anticipatory bail but unable to dispute the fact that the case of applicant is distinguishable to the other two co-accused persons.

Matter requires consideration.

Three weeks' time is granted to learned A.G.A. and learned counsel for the first informant to file counter affidavit.

One week's time, thereafter, is granted to learned counsel for the applicant for filing rejoinder affidavit.

On due consideration to the arguments advance 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, as an interim measure, is liable to be enlarged on anticipatory bail in view of the Constitution Bench judgment of Supreme Court in the case of "Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC online SC 98". 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.

In the event of arrest, the accused-applicant Smt. Suman Giri shall be released forthwith in the aforesaid case crime (supra) on interim anticipatory bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the arresting officer/investigating officer/S.H.O./court concerned on the following conditions:-

(i) the applicant shall make herself available for interrogation as and when required;

(ii) 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 her from disclosing such facts to the Court or to any police officer; and

(iii) the applicant shall not leave India without the previous permission of the Court.

List on 11th July, 2022 in the additional cause list. "

In spite of repetitive opportunities having been provided to the State no counter affidavit has been filed till date.

Section 438 Cr.P.C. mandates for an application for anticipatory bail to be decided within thirty days.

Learned A.G.A. did not point out any violation of the conditions of interim anticipatory bail committed by the applicant. Nothing has come to light which may persuade this court to take a view, other than the view taken at the time of granting interim anticipatory bail to the applicant.

In view of above, the interim order dated 06.04.2022 is made absolute and the anticipatory bail application is **allowed**.

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(Subhash Vidyarthi, J.)

Order Date :- 21.12.2023

Ram.