

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 1443 of 2022

Applicant :- Sumit Singh

Opposite Party :- State Of U.P. Thru. Addl. Prin. Secy. Deptt.
Of Home Lko. And Another

Counsel for Applicant :- Mohd. Rais, Arun Kumar Pandey

Counsel for Opposite Party :- G.A., Anand Dubey, Brijesh
Kumar Verma

Hon'ble Subhash Vidyarthi, J.

1. State has filed a counter affidavit which is taken on record.
2. On 02.09.2022, after hearing the learned counsel for the applicant and the learned A.G.A. this Court had passed the following interim order -

"Heard Sri Amar Nath Dubey, Advocate holding brief of Sri Mohd. Rais, learned counsel for the applicant and Sri Shiv Kumar Mishra, learned A.G.A. for the State and perused the material on record.

The present bail application has been filed on behalf of applicant Sumit Singh under Section 438 of the Code of Criminal Procedure, with a prayer to release him on anticipatory bail in Case Crime No. 119 of 2022 for offence punishable under Sections 498-A, 323, 506, 313, 120-B of the Indian Penal Code and Section 3/4 of Dowry Prohibition Act, registered at Police Station- Sadatganj, District- Lucknow till the conclusion of trial, after rejecting the anticipatory bail application of the applicant by Additional Session Judge, Court No. 11, Lucknow vide order dated 28.07.2022.

As per allegation of the first information report dated 14.06.2022, the marriage of the victim/first informant was solemnized with co-accused Amit Singh on 27.01.2014 and the marriage of the present applicant was solemnized with the sister of the first informant on 22.04.2016. In both the marriage, sufficient dowry has been given by her parents. After the marriage of her sister, the applicant and other co-accused are not satisfied with the dowry and they demanded Rs. 5 lac as additional dowry and father of the victim/first informant paid Rs. 50,000/- to the other co-accused Amit Singh and various allegations with regard to matrimonial dispute has been alleged.

Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case due to ulterior motive. It is further submitted that general allegation of cruelty and demand of dowry has been levelled against the applicant and the allegation with regard to offence punishable under Section 313 of I.P.C. is made out against the co-accused Amit Singh.

Learned counsel for the applicant has also relied upon cases of Apex Court in Geeta Mehrotra Vs. State of U.P., (2012) 10 SCC 741 and Preeti Gupta v. State of Jharkhand, (2010) 7 SCC 667, where it was held that the courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegation of the complaint are required to be scrutinized with great care and circumspection.

It is further submitted that the applicant is no more required for custodial interrogation. The applicant has no criminal history and he has not undergone any imprisonment after conviction by any court of law in relation to any cognizable offence previously. It is further contended that the applicant is ready to participate in the investigation.

Learned A.G.A. has opposed the prayer for anticipatory bail of the applicant.

It is settled position of law that the anticipatory bail being an extraordinary privilege should be granted only in exceptional cases. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied, where the Court is prima facie of the view that the applicant has falsely roped in the crime and would not misuse his liberty.

Considering the facts and circumstances of the case and the law laid down by the Hon'ble Apex Court in the case of Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC Online SC 98, ground for grant of ad interim anticipatory bail is made out.

Learned A.G.A. may file counter affidavit within two weeks.

Rejoinder affidavit, if any, may be filed within one week thereafter.

List on 23.09.2022.

In case of arrest, the applicant, Sumit Singh, is directed to be enlarged on anticipatory bail till the hearing of the present application in above case crime number, on his furnishing personal bond of Rs. 25,000/- and two sureties each of like amount before the Station House Officer of Police Station/Court concerned with the following conditions:-

(i) The applicant shall make himself available for interrogation by the police officer as and when required, if investigation is in progress;

(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 such person from disclosing such facts to the Court or to any police officer;

(iii) The applicant shall not leave the country without the previous permission of the Court and if he has passport, the same shall be deposited by them before the S.S.P./S.P. concerned/Court concerned;

(iv) The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad, self attested by the applicant along-with a self attested identity proof of the said person (preferably Aadhar Card) mentioning the mobile number to

which the said Aadhar Card is linked;

(v) The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

The Investigating Officer will continue with the investigation, if it is in progress and will not be affected by this order."

3. Nothing has come to light which may persuade this Court to take a view, different from the view taken while passing the aforesaid order, nor the learned A.G.A. has pointed out violation of any of the conditions of interim anticipatory bail committed by the applicant.

4. Application is pending since 18.08.2022.

5. Sub-Section 5 of Section 438 of the Cr.P.C. mandates that the anticipatory bail application has to be decided by this Court within a period of 30 days from the date of filing of such an application.

6. In view of above, the interim order dated 02.09.2022 is made absolute and the anticipatory bail application is ***allowed***.

Order Date :- 2.11.2023

Pradeep/-