

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 2213 of 2023

Applicant :- Mamta Devi And 4 Others

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko. And 2 Others

Counsel for Applicant :- Indu Prakash Singh, Usha Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Indu Prakash Singh, the learned counsel for the applicants as well as Sri Jayant Singh Tomar, the learned Additional Government Advocate-I appearing on behalf of the State and Ms. Nandita Bharti, learned counsel for the informant and perused the records.

2. The instant application has been filed by the applicant seeking anticipatory bail in F.I.R. bearing Case Crime No.0117 of 2023, under Section 306 I.P.C., registered at Police Station Hindola, District Lucknow.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 06.08.2023 against numerous persons without giving adequate particulars of them, alleging that the informant's son, aged about 45 years, had got married to co-accused, Pinki about 18 years ago. They had a daughter aged about 17 years and a son aged about 14 years. About 2 years ago, wife of the informant's daughter had gone away to her parents' home with her children and whenever the informant's son went to bring her back, all the accused persons used to mentally harass her. The FIR further alleges that co-accused, Pinki was having illicit relations with another co-accused Chhabra. Informant's son often used to say that the accused persons were harassing him and he will commit suicide some day and he had recorded a video making such a statement and, thereafter, he hanged himself. The incident of hanging is also recorded in the video.

4. In the affidavit filed in support of the anticipatory bail-application, it has been contended that the applicants are innocent, they have no criminal history and they have falsely been implicated in the present case.

5. Applicant No.1-Mamta Devi and Applicant No.5 Geeta Devi are wives of two brothers of the deceased's wife-co-accused Pinki. Applicant No.2, Sheela Devi is mother-in-law of the deceased and Applicant No.3 and 4 are brothers-in-law of the deceased.

6. It has further been stated in the FIR that co-accused Pinki Devi had lodged FIR No.141/2023 dated 21.06.2023 under Sections 498A, 377, 511, 323, 504, 506 IPC, 3/4 Dowry Prohibition Act against her deceased husband and his family members leveling numerous charges.

7. Learned counsel for the informant has vehemently opposed the bail application and she has submitted that on 29.09.2022, the investigating officer had submitted a final report after carrying out investigation of FIR No.141 of 2023. She has further submitted that the incident has been video-graphed and it is recorded therein that the deceased had committed suicide because of ill treatment meted out against him by the accused persons. There is sufficient material indicating involvement of the applicant in commission of the offence.

8. The learned A.G.A. has also opposed the prayer for bail but he could not dispute the aforesaid aspects of the matter.

9. From the facts available on record *prima facie* it appears that the deceased had got married about 18 years ago and there were serious disputes between them due to which they were living separately from each other for the past almost 2 years. Although allegations of harassment has been leveled against all the accused persons, *prima facie*, there is no material which may make out a case of instigation for commission of suicide in close proximity of the incident.

10. Without making any observations which may affect the outcome of the case, I am of the view that the aforesaid facts are sufficient for making out a case for granting anticipatory bail to the applicant.

11. In view of the above, the anticipatory bail application of the applicant is **allowed**. In the event of arrest/ appearance of **applicants-** Mamta Devi, Sheela Devi, Jitendra Kumar, Surendra Kumar and Geeta Devi before the learned Trial Court in the aforesaid case crime, they shall be released on anticipatory bail on their furnishing personal bond and two solvent sureties, each in the like amount, to the satisfaction of S.H.O./Court concerned on the following conditions and subject to any other conditions that may be fixed by the Trial Court:

(i). That the applicants shall appear before the trial court on each date fixed, unless personal presence is exempted;

(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 him from disclosing such facts to the court or to any police officer or tamper with the evidence;

(iii). That the applicants shall not pressurize/ intimidate the prosecution witness;

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(Subhash Vidyarthi, J.)

Order Date :- 10.10.2023
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