

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 2273 of 2023

Applicant :- Sarita Singh

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

Counsel for Applicant :- Manoj Kumar Mishra, Bina Kumari Bajpai, Sanandan Kumar Misra

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Manoj Kumar Mishra, the learned counsel for the applicant as well as Sri Jayant Singh Tomar, the learned Additional Government Advocate appearing on behalf of the State 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.92 of 2023, under Sections 498A, 304B, 506 I.P.C., 3/4 Dowry Prohibition Act registered at Police Station Alambagh, District Lucknow.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 29.04.2023 against the applicant and her two sons, stating that the informant's sister got married to applicant's son, Rajan Singh on 11.12.2020; that all the accused used to harass her for demanding dowry and the informant had transferred Rs.4,00,000/- through RTGS in the Bank account of co-accused, Anurag Singh about one year ago but the accused persons continued to harass the informant's sister and they restrained her telephonic communication with the informant and his family members. On 26.04.2023, the applicant telepathically informed about death of the informant's sister.

4. Post mortem examination report mentions cause of death to be asphyxia due to antemortem hanging.

5. In the affidavit filed in support of the anticipatory bail-application,

it has been contended that the applicant is an innocent woman, and she has no criminal history and she has falsely been implicated in the present case.

6. Learned counsel for the applicant has submitted that the applicant is working with the Jail Department and she is posted at Lucknow and in the affidavit, it has been stated that on the date of the incident also, the applicant was present on her duty, a copy of the attendance register has been annexed to support this contention.

7. Learned counsel for the applicant has further submitted that allegation of Rs.4,00,000/- having been transferred towards dowry in the account of co-accused-Anurag Singh is false. The money was taken as debt for construction of a house and similar amounts were taken from other persons also on 09.12.2021 and 13.12.2021 and copy of the bank statements of the applicant's son, Anurag Singh has been annexed with the affidavit to support this contention.

8. The learned A.G.A. has opposed the prayer for bail and he has submitted that proclamation under Section 82 Cr.P.C. has already been issued against the applicant and, therefore, she is not entitled to be granted anticipatory bail.

9. Copy of the order dated 04.10.2023 passed by the Chief Judicial Magistrate, Lucknow issuing proclamation under Section 82 Cr.P.C. has been annexed with the affidavit filed in support of the applicant wherein it is not recorded that summons/warrant of the case were served on the applicant.

10. Learned counsel for the applicant has submitted that the applicant is a Government servant and she is attending her duties and she is not absconding. Under these circumstances, issuance of proclamation under Section 82 Cr.P.C. will not bar this Court from entertaining an application under Section 438 Cr.P.C.

11. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the deceased committed suicide by hanging herself and the applicant was attending her office on the date of incident; that the allegation of payment of dowry has been refuted with support of the bank account statement, which indicates that similar amounts were borrowed by the co-accused Anurag Singh by two other persons also regarding which applicant's explanation is that the applicant has borrowed the amount for construction of his house; that the allegation of blocking of telephone connection has also been refuted by annexing print out of whatsapp chats of the deceased's mobile number and that the applicant is a woman and is a Government employee coupled with the fact that the applicant has no criminal history and 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.

12. In view of the above, the anticipatory bail application of the applicant is **allowed**. In the event of arrest/ appearance of **applicant-Sarita Singh** before the learned Trial Court in the aforesaid case crime, she shall be released on anticipatory bail on her 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 applicant shall appear before the trial court on each date fixed, unless personal presence is exempted;

(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 pressurize/ intimidate the prosecution witness;

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(Subhash Vidyarthi, J.)

Order Date :- 18.10.2023
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