Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 2299 of 2023

Applicant :- Guddi
Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko. And Another
Counsel for Applicant :- O.P. Tiwari
Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri O.P. Tiwari, the learned counsel for the applicant, Sri Anurag Verma, learned A.G.A. for the State and Sri Amit Kumar, learned counsel for the informant.

2. The instant application has been filed by the applicant seeking anticipatory bail in F.I.R. bearing Case Crime No.180 of 2022, under Sections 366, 342, 328, 302, 201, 506, 120-B I.P.C., registered at Police Station Sohramau, District Unnao.

3. Learned Additional Government Advocate appearing on behalf of the State has raised a preliminary objection on the ground that the present case involves allegation of commission of offence under Section 302 I.P.C. which carries a punishment up to death and therefore in view of the provisions contained in Section 438 (6) (b) Cr.P.C. as applicable in the State of U.P. the anticipatory bail application cannot be entertained.

4. The learned counsel for the applicant has submitted in reply to the aforesaid objection that co-accused Budhana has been granted anticipatory bail by this court by means of an order dated 12.10.2023, passed in Criminal Misc. Anticipatory Bail Application No.2227 of 2023.

5. The aforesaid order has been passed without taking into consideration the aforesaid statutory provision contained in Section 438 (6) (b) Cr.P.C., as applicable in the State of U.P.

6. The learned counsel for the applicant places reliance on the judgments of Hon'ble Supreme Court in the cases of ***Sumedh Singh Saini Vs. State of Punjab and another: (2021) 15 SCC 588*** and ***Mahand Chand Yogi and another Vs. State of Haryana: (2003) 1 SCC 326***.

7. The aforesaid judgments do not relate to the offence committed outside the State of U.P. and the provisions of Section 438 (6) (b) Cr.P.C. as applicable to the State of U.P., was not applicable in those case.

8. Therefore, the applicant will not get any benefit of the aforesaid orders passed by Hon'ble the Apex Court.

9. In view of the aforesaid discussion, the instant applicant is not maintainable and the same is ***dismissed*** without prejudice to the rights of applicant in taking recourse to any appropriate remedy as available to her under law.

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(Subhash Vidyarthi, J.)

Order Date :- 18.10.2023
Ram.

Digitally signed by :-
RAM SINGH
High Court of Judicature at Allahabad,
Lucknow Bench