

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2883 of 2023

Applicant :- Smt. Kiran Lata Shukla And Another

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

Counsel for Applicant :- Kaushal Kishore Tewari

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Kaushal Kishore Tewari, the learned counsel for the applicant as well as Smt. Arti Gupta Singh, the learned Additional Government Advocate appearing on behalf of the State and perused the records.

2. At the outset, the learned Additional Government Advocate stated that she has not received instructions in the matter. The copy of this anticipatory bail application was served in the office of the Government Advocate on 07.12.2023 and it is a matter of serious concern that the instructions have not been provided to the learned A.G.A. even after expiry of a period of one week. It is not the solitary case in which the learned Additional Government Advocate has informed the court about non-receipt of instructions and there are several other matters which had to be passed over for want of instructions to the learned Additional Government Counsel, however, inefficiency of the officers and officials of the State in timely providing instructions to the State Law Officers cannot be a ground for postponing hearing of the application for anticipatory bail and, therefore, I proceed to decide application on the basis of material available before this Court.

3. The instant application has been filed by the applicant

seeking anticipatory bail in F.I.R. bearing Case Crime No.0168 of 2021, under Sections 498-A/323/504/506/328 I.P.C. and Section 3/4 of Dowry Prohibition Act, registered at Police Station Kotwali, District Sitapur.

4. The aforesaid case has been registered on the basis of an F.I.R. lodged on 27.03.2021 against six persons, including the applicant, stating that the informant had got his sister married to the applicant's son co-accused Amit Kumar Shukla on 11.12.2019; that the accused persons used to harass her for demanding dowry and all of them had beaten her up on 23.03.2021 and had forcibly made her consume some poisonous substance due to which she suffered injuries and got seriously ill and had to be admitted to the District Hospital, Sitapur.

5. In the statement of the victim recorded under Section 161 Cr.P.C. she had reiterated the F.I.R. allegations. However, on 11.09.2021 the informant and the victim gave an affidavit to the Superintendent of Police, Sitapur stating that the F.I.R. was lodged due to lack of adjustments between the informant's sister and her husband. No person is at fault and there is every possibility of compromise between the parties and therefore the informant and his sister both stated that they did not want any proceedings against any person.

6. On 10.09.2021 the Investigating Officer had submitted a final report which had been forwarded on 11.09.2021, but before the final report could be forwarded to the Court the informant gave an application for further investigation. The statement of doctor who had treated the victim on 24.03.2021 was recorded by the Investigating Officer wherein she stated that the victim was forcibly made to consume some poisonous substance, could not be established and the victim had been beaten up and there were five marks of injuries on her body which were simple in

nature. Thereafter, the Investigating Officer had submitted a charge sheet on 25.07.2022 against all the accused persons for commission of offence under Sections 323, 504, 498-A I.P.C. and Section 3/4 Dowry Prohibition Act. Subsequently, on the application made by the informant a medical board was constituted which gave a report that the medical documents of the victim indicates that she had been conservatively managed to suspect poisoning. The doctor who had treated the victim and had submitted the medico legal examination report was not a part of the medical board. Thereafter, another charge sheet has been submitted on 09.09.2023 against four persons including the applicants and the allegations against two co-accused accused persons could not be established.

7. 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.

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

9. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the incident allegedly took place on 23.03.2021 and the F.I.R. has been lodged on 27.03.2021; that the doctor who treated the victim categorically stated that the allegation of administration of some poisonous substance could not be established; that the applicant and the victim had earlier given affidavit to the Superintendent of Police stating that no person was at fault in the incident and it was only a matter of lack of adjustments between a husband and wife; that although the F.I.R. levels allegations against six persons, the allegations against two co-accused persons could not be established during investigation coupled with the fact

that the applicants are 65 and 67 years old persons having 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 applicants.

10. In view of the above, the anticipatory bail application of the applicants is **allowed**. In the event of arrest/ appearance of **applicants-Smt.Kiran Lata Shukla and Ram Kishore Shukla** 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 :- 14.12.2023
Ram.