# IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

**BEFORE**

**JUSTICE SUJOY PAUL**

**ON THE 2nd OF FEBRUARY, 2024**

**MISC. CRIMINAL CASE No. 55975 of 2023**

**BETWEEN:-**

**JEENAT W/O FARAJ AHMAD, AGED ABOUT 30 YEARS, R/O NERA PULL BOGADA BHURANI MAJID MORARAJI NAGAR, BHOPAL (MADHYA PRADESH)**

**.....APPLICANT**

***(BY MS. PRIYANKA TIWARI - ADVOCATE )***

**AND**

**THE STATE OF MADHYA PRADESH THROUGH POLICE STATION AISHBAG DISTRICT BHOPAL (MADHYA PRADESH)**

**.....RESPONDENTS**

***(SHRI A. N. GUPTA - GOVERNMENT ADVOCATE AND SHRI ANUBHAV SINGHAL - ADVOCATE FOR OBJECTOR)***

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*This application coming on for admission this day, the court passed the following:*

**ORDER**

With the consent, finally heard.

**2.** This is *second* application filed by the applicant under Section 438 of the Code of Criminal Procedure for grant of pre-arrest bail relating to Crime No.101/2023, registered at Police Station Aishbagh, District Bhopal (M.P.) for the offences punishable under Sections 420, 467, 468, 406, 506 and 120-B of the IPC.

**3.** His previous application i.e. M.Cr.C.No.19189 of 2023 was dismissed as withdrawn on 05/06/2023.

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**4.** Learned counsel for the applicant submits that after withdrawal of previous application, this Court was kind enough in granting pre-arrest bail to co-accused Syed Hina Praveen in M.Cr.C.No.47515 of 2023 (Annexure A/4). The applicant will co-operate with the investigation and trial (if any). The applicant will not influence the material/evidence. The applicant belongs to a reputed family and will not cause any prejudice to the investigation. In addition, it is submitted that applicant is suffering from certain ailments which can be seen from medical documents (Annexure A/3). The applicant has recently delivered a child and in this view of the matter, she may be given benefit of anticipatory bail.

**5.** The prayer is opposed by Shri A. N. Gupta, learned Government Advocate and Shri Anubhav Singhal, learned counsel for objector.

**6**. I have heard the parties at length and perused the record.

**7.** The prosecution story in Crime No.101/2023 shows that the applicant is made accused along with other co-accused persons with the aid of Section 120-B of IPC. This Court has granted anticipatory bail to co-accused Syed Hina Praveen. The applicant is a young woman who has recently delivered a child.

**8.** The Apex Court in **Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694** laid down the parameters on which anticipatory bail can be considered. The relevant portion of judgment of **Siddharam Satlingappa Mhetre (supra)** reads as under :

> **"112**. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:
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> **(i)** The nature and gravity of the accusation and the exact role of the accused must be properly

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comprehended before arrest is made;

**(ii)** The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;

**(iii)** The possibility of the applicant to flee from justice;

**(iv)** The possibility of the accused's likelihood to repeat similar or other offences;

**(v)** Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;

**(vi)** Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;

**(vii)** The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution because overimplication in the cases is a matter of common knowledge and concern;

**(viii)** While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

**(ix)** The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

**(x)** Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of

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events, the accused is entitled to an order of bail.

**113**. Arrest should be the last option and it should be restricted to those exceptional cases where arresting the accused is imperative in the facts and circumstances of that case. The court must carefully examine the entire available record and particularly the allegations which have been directly attributed to the accused and these allegations are corroborated by other material and circumstances on record."

**9.** If present case is examined on the anvil of said principles, it will be clear that applicant will not be able to flee from justice. No criminal antecedent of applicant is brought to the notice of the Court. There exist no material to suggest likelihood of repeating similar or other offence by applicant. Thus, in the opinion of this Court, if anticipatory bail is granted to the applicant, no prejudice would be caused to free and fair investigation/trial. The case is based on oral as well as documentary evidence. The applicant shall not be able to tamper the evidence. In **Siddharam Satlingappa Mhetre (supra)**, it was made it clear that arrest should be the last option where arresting the accused is imperative. In the factual backdrop of this case, in the opinion of this Court, the applicant deserves an anticipatory bail.

**10.** Considering the aforesaid factual backdrop, I deem it proper to grant benefit of anticipatory bail to the applicant subject to conditions that she shall join the investigation immediately and shall not take any steps to influence the material/evidence in any manner.

**11**. Accordingly, in the event of arrest, **applicant- Jeenat** be released on anticipatory bail on her furnishing a personal bond in a sum of **Rs.50,000/- (Rs. Fifty Thousand only)** along with one surety in the like amount to the satisfaction of arresting officer for her appearance before the Investigating

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Officer during the course of investigation as and when directed.

**12.** Conditions of Section 438(2) Cr.P.C. shall also apply on the applicant during currency of bail.

**13.** The M.Cr.C is disposed of.

**(SUJOY PAUL)**
**JUDGE**

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