

Smt Rekha vs State Of U.P. And Another on 12 August, 2024

Author: Vivek Varma

Bench: Vivek Varma

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2024:AHC:130757

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 7491 of 2024

Applicant :- Smt Rekha

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Rohit Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Copy of the order dated 28.02.2024 passed in Divorce Petition No. 258 of 2023 (Smt Sunita vs. Rajendra) is taken on record.
2. Heard counsel for the applicant, Sri V.P. Tripathi, learned AGA for the State and perused the material on record.
3. The present Anticipatory Bail Application has been filed with the prayer to grant anticipatory bail to the applicant in Case Crime No. 143 of 2022, under Sections 498A, 323, 504, 506, 326A I.P.C. and Section 3/4 of Dowry Prohibition Act, Police Station - Patvai, District- Rampur, during the pendency of trial.

4. Counsel for the applicant contends that the matter arises out of matrimonial discord between the co-accused, Rajendra and the opposite party no. 2/victim. The applicant is the mother-in-law of the victim. The incident is alleged to have occurred on 25.08.2021. The first information report was lodged on 28.07.2022. There is an inordinate delay in lodging the first information report. As per the medical report dated 18.08.2022, no external injury was seen on the body of the victim. Vague and general allegations have been levelled against the applicant in the first information report. For the first time, in the statement of the victim under Section 164 Cr.P.C., the role of administering acid to the victim has been assigned to the applicant. It is contended that the said statement is an afterthought and discredits the prosecution case. Material changes has been made to aggravate the offence and save the failing prosecution case. It is next contended that the applicant and the co-accused, Rajendra have entered into a settlement. The Family Court vide order dated 28.02.2024 has granted a decree of divorce by mutual consent. An order under Section 12 of the Domestic Violence Act was also passed on 08.06.2024 on the basis of the compromise between the parties. The applicant has no criminal antecedents. The investigation has been completed. No custodial interrogation is required. The applicant has been summoned by the trial court.

5. Learned A.G.A. opposed the prayer for anticipatory bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having regard to the submissions made by counsel for the applicant, considering the nature of accusations, antecedents of the applicant and the fact that the F.I.R. was lodged belatedly, the fact that no external injury was seen on the body of the victim, the fact that the applicant and the co-accused, Rajendra have entered into a settlement and the Family Court vide order dated 28.02.2024 has granted a decree of mutual divorce in favour of the co-accused, Rajendra and the opposite party no. 2/ victim, the fact that an order under Section 12 if the Domestic Violence Act was passed on 08.06.2024 on the basis of the compromise between the parties, without commenting on merits of the case, I am of the opinion that the applicant is entitled to be enlarged on anticipatory bail.

7. In the event of arrest, the applicant Smt Rekha, involved in the aforesaid case crime be released on anticipatory bail during pendency of trial, on furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) the applicant shall make himself available on each date fixed in the matter by the court concerned;

(ii) 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 from disclosing such facts to the Court;

(iii) the applicant shall not leave India without the previous permission of the Court and if she has passport the same shall be deposited by her before the concerned court.

8. In case, the applicant does not co-operate in the proceedings of the trial, this order shall stand automatically recalled/vacated and the applicant shall be taken into custody, forthwith.

9. Further, in default of any of the conditions, the court concerned is at liberty to pass appropriate orders for enforcing and compelling the same.

10. The application stands disposed of.

Order Date :- 12.8.2024 Sachin Mishra