

Saroj Devi vs State Of U.P. And Another on 19 September, 2022

Author: Raj Beer Singh

Bench: Raj Beer Singh

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 7497 of 2022

Applicant :- Saroj Devi

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

Counsel for Applicant :- Anirudh Kumar Upadhyay, Dharmendra Kumar Singh, Vivek Tripathi

Counsel for Opposite Party :- G.A., Dileep Kumar Singh, Vinai Shanker Singh

Hon'ble Raj Beer Singh, J.

Supplementary affidavit filed in Court today, is taken on record.

Heard Sri Manish Tiwary, learned Senior Advocate assisted by Sri Vivek Tripathi, learned counsel for the applicant, learned counsel for the complainant, learned A.G.A. for the State and perused the record.

The present application has been moved seeking anticipatory bail in Case Crime no. 0116 of 2022, under Sections 498A, 304B, 504, 506, 507 IPC, and Section 3/4 of D.P. Act, Police Station Chaubepur, District Varanasi with the prayer that in the event of arrest, applicant may be released on bail.

It has been argued by the learned senior counsel for the applicant that applicant is innocent and she has an apprehension that she may be arrested in the above-mentioned case, whereas there is no

credible evidence against her. The applicant has no criminal antecedents. Applicant is mother-in-law of deceased. The marriage of deceased with son of applicant has taken place on 30.06.2020. According to prosecution version, applicant and co-accused persons used to harass the deceased on account of dowry, however, later on deceased was brought to her parental home and since several months prior to the incident, she was residing at Chaubepur, Varanasi and was preparing for competitive examinations and it is alleged that on the night of 23.03.2022 the deceased has told that her husband and mother-in-law (applicant) have again made demand of cash and a scorpio car and that on 24.03.2022 she committed suicide. Learned senior counsel submitted that there was some dispute between the deceased and her husband and that applicant has made efforts to solve the dispute. On 03.10.2021 she was brought back to her parental home by her family members. After marriage, deceased has resided with her husband in Kadipur, district Sultanpur, as the husband of deceased was posted there as Revenue Inspector. The allegations that applicant has made demand of Rs. 20 lacs and a scorpio car are thoroughly false. Referring to the suicide note of deceased, it was submitted that there is no evidence that applicant has made any telephonic call to the deceased. Alleged telephonic conversation on 23.03.2022 has taken place between the deceased and her husband. Since several months prior to the incident, the deceased was residing at Chaubepur, Varanasi and was doing preparations for competitive examinations and she has committed suicide there. During investigation, the arrest of applicant was stayed by a Division Bench of this Court vide order dated 20.04.2022 passed in criminal misc. writ petition no. 4159 of 2022 till the filing of report under Section 173(2) Cr.P.C. Now, investigation is complete and charge-sheet has already been filed. Learned senior counsel further submitted that applicant is a 65 years old lady and in the year 2015 she has suffered brain hemorrhage and after that she is unable to move without help of any other person and she has been admitted in hospital for long and even at present she is admitted in T.B. Hospital, Teliarganj, Allahabad for treatment, copy of which has been annexed along with the application. The applicant undertakes to co-operate during trial and she would appear as and when required by the Court. It has been stated that in case, the applicant is granted anticipatory bail, she shall not misuse the liberty of bail and will co-operate with the trial and would obey all conditions of bail.

Learned A.G.A. as well as learned counsel for the complainant have opposed the application for anticipatory bail and argued that applicant is mother-in-law of deceased and there are allegations that she used to harass the deceased on account of dowry. It was further submitted that earlier interim protection from arrest was granted to the applicant by the Division Bench of this Court vide order dated 20.04.2022 passed in criminal misc. writ petition no. 4159 of 2022 but at that time the suicide note, left by the deceased, was not taken into consideration. Referring to the suicide note of the deceased, it was submitted that there are specific allegations that husband and mother-in-law of deceased used to harass the deceased on account of dowry. However, it could not be disputed that since several months prior to the incident, deceased has come to her parental home and thereafter, she was residing at Chaubepur, Varanasi for preparation of competitive examinations and that charge-sheet has already been filed.

It may be stated that in case of *Siddharam Satlingappa Mhetre v. State of Maharashtra*, (2011) 1 SCC 694, it has been held by Hon'ble Supreme Court that while deciding anticipatory bail, Court must consider nature and gravity of accusation, antecedent of accused, possibility of accused to flee from

justice and that Court must evaluate entire available material against the accused carefully and that the exact role of the accused has also to be taken into consideration.

In the instant case, considering the settled principle of law regarding anticipatory bail, submissions of the learned counsel for the parties, medical condition and role of applicant and all attending facts and circumstances of the case, without expressing any opinion on merit of the case, a case for anticipatory bail is made out.

The anticipatory bail application is allowed.

In the event of arrest of the applicant- Saroj Devi involved in the aforesaid case crime shall be released on anticipatory bail on her furnishing a personal bond of Rs. 80,000/- with two sureties each in the like amount to the satisfaction of the Station House Officer of the police station concerned/court concerned with the following conditions :-

1. The applicant shall not tamper with the evidence during the trial.
2. The applicant shall not pressurize/ intimidate the prosecution witness.
3. The applicant shall appear before the trial court on the date fixed, unless personal presence is exempted.
4. The applicant shall not commit an offence similar to the offence of which she is accused, or suspected, of the commission of which she is suspected.
5. 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 them from disclosing such facts to the Court or to any police officer or tamper with the evidence.

In case of breach of any of the above condition, the Court below shall be at liberty to cancel bail of applicant in accordance with law.

Order Date :- 19.9.2022 Anand