

Hasmati vs State Of U.P. And Another on 17 July, 2023

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2023:AHC:141143

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 7917 of 2023

Applicant :- Hasmati

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

Counsel for Applicant :- Mohammad Khalid

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. Heard learned counsel for the applicant, learned AGA and perused the material available on record.
2. This application for anticipatory bail has been filed by applicant- Hasmati in connection with Case Crime No. 14 of 2018, under sections 498-A, 323, 324, 307, 504, 506 IPC and 3/4 D.P. Act, P.S. Barla, District Aligarh.
3. It has been submitted by the learned counsel for the applicant that applicant is innocent and she has apprehension of arrest in the above-mentioned case, whereas there is no credible evidence against her. Allegations levelled against the applicant are false. Charge sheet in the matter has been submitted. In case applicant is granted anticipatory bail, she shall not misuse the liberty of bail and would obey all conditions of bail.
4. It is next submitted that charge sheet has been filed in this case and now after filing of the charge sheet, no custodial interrogation is required. It is further submitted that the accused applicant has

been cooperative to the I.O. of the case during the course of investigation.

5. Learned A.G.A. has opposed the prayer.

6. Prima facie, it appears to be matrimonial dispute wherein it has been alleged that additional dowry was demanded from the victim of the case and on account of the said demand, she was subjected to cruelty and harrasment by her in-laws. She was also assaulted with knife by her father-in-law and dewar and they also tried to strangulate her. It also appears from the perusal of the record that applicant is the mother-in-law of the victim of the case and no role of assault has been assigned to her. It also appears from the perusal of the record that a case for restitution of conjugal rights has also been filed by the husband of the victim. It further appears from the perusal of the record that accused applicant has been cooperative during the course of investigation and no custodial interrogation is required now.

7. In Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1, the Hon'ble Apex Court has settled the controversy finally by holding the anticipatory bail need not be of limited duration invariably. In appropriate case, it can continue upto conclusion of trial.

It has been further held therein that anticipatory bail granted can, depending on the conduct and behavior of the accused, continue after filing of the charge sheet till end of trial.

It has been further held by the Hon'ble Apex Court that while considering an application for grant of anticipatory bail, the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence including intimidating witnesses, likelihood of fleeing justice, such as leaving the country, etc. It has further been held that Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion.

8. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, in my view, it is a fit case for anticipatory bail to the applicant till conclusion of trial in the matter.

9. The anticipatory bail application is allowed.

10. In the event of arrest of the applicant in the aforesaid case crime, she shall be released on anticipatory bail on her 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 not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade her from disclosing such facts to the Court or to any police officer or tamper with the evidence.

(ii) The applicant shall not pressurize/ intimidate the prosecution witness.

(iii) 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.

(iv) The applicant shall not leave India without prior permission of the Court and if she has passport, the same shall be deposited by her before the S.S.P./S.P. concerned.

11. In case of breach of any of the above conditions, the Investigating Officer shall be at liberty to file appropriate application for cancellation of anticipatory bail of the applicant in accordance with law
Order Date :- 17.7.2023 Shivangi