

Court No. - 83

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S
438 CR.P.C. No. - 4150 of 2023

Applicant :- Shamshad And 3 Others

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

Counsel for Applicant :- Mohammad Khalid

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Mohammad Khalid, learned counsel for the applicants and Sri R.P. Patel, learned A.G.A. for the State as well as perused the record.
3. The present anticipatory bail application has been filed on behalf of the applicants in Case No.154 of 2021, arising out of Case Crime No.352 of 2020, registered under Sections 498-A, 354, 504, 506 I.P.C. and 4 Muslim Women (Protection of Right on Marriage) Act, at Police Station- Sahawar, District Kasganj with a prayer to enlarge them on anticipatory bail.
4. This is the second anticipatory bail application on behalf of the applicants. The first anticipatory bail application was rejected by this Court vide order dated 21.10.2020 for want of prosecution.
5. Learned counsel for the applicants has stated that the applicants were granted interim protection by this Court vide order dated 20.12.2021. Learned counsel has stated that the applicants have not misused the said liberty. Learned counsel has stated that the matter is petty in nature and the allegations have been allayed under Sections 498-A, 506 I.P.C. and 4 Muslim Women (Protection of Right on Marriage) Act. The petition under Section 482 Cr.P.C. No.13510 of 2020 is pending before this Court. The matter was referred for mediation but the mediation proceedings have resulted into failure. The applicants have no criminal antecedents to their credit. Several other submissions have been made on behalf of the applicants to demonstrate the falsity of the allegations made against them. The circumstances which, as per counsel, led to the false implication of the applicants have also been touched upon at length. Learned counsel for the applicants undertakes that they have co-operated in the investigation and are ready to do so in trial also failing which the State can move appropriate application for cancellation of anticipatory bail.
6. Per contra, learned A.G.A. has vehemently opposed the anticipatory bail application but unable to dispute the

submissions raised by the learned counsel for the applicants.

7. On due consideration to the arguments advanced by learned counsel for the applicants as well as learned A.G.A. and considering the nature of accusations and antecedents of the applicants, the applicants are liable to be enlarged on anticipatory bail in view of the judgment of Supreme Court in the case of "**Sushila Aggarwal Vs. State (NCT of Delhi), (2020) 5 SCC 1**". The future contingencies regarding the anticipatory bail being granted to applicants shall also be taken care of as per the aforesaid judgment of the Apex Court.

8. In view of the above, the anticipatory bail application of the applicants is allowed. Let the accused-applicants- **Shamshad, Nausad** and **Dilshad** be released forthwith in the aforesaid case crime (supra) on anticipatory bail till the conclusion of trial on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i). that the applicants shall make themselves available for interrogation by a police officer as and when required;

(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 them from disclosing such facts to the court or to any police officer or tamper with the evidence;

(iii). that the applicants shall not leave India without the previous permission of the court;

(iv). that in case charge-sheet is submitted the applicants shall not tamper with the evidence during the trial;

(v). that the applicants shall not pressurize/ intimidate the prosecution witness;

(vi). that the applicants shall appear before the trial court on each date fixed unless personal presence is exempted;

(vii). that in case of breach of any of the above conditions the court below shall have the liberty to cancel the bail.

9. It is made clear that observations made hereinabove are exclusively for deciding the instant anticipatory bail application and shall not affect the trial.

[Krishan Pahal, J.]

Order Date :- 13.4.2023/ Vikas