

Court No. - 69

Case :- CRIMINAL MISC. ANTICIPATORY BAIL
APPLICATION U/S 482 BNSS No. - 12087 of 2024

Applicant :- Nikita Singhanian And 3 Others

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

Counsel for Applicant :- Ajay Kumar Singh, Aushim Luthra, Sr.
Advocate, Tejas Singh

Counsel for Opposite Party :- G.A., Rajiv Kumar Singh, Shiv
Veer Singh

Hon'ble Ashutosh Srivastava, J.

The instant (Transit) Anticipatory Bail Application at the instance of the applicants, who are Wife of the deceased, Mother-in-Law of the deceased, Brother-in-Law of the deceased and Uncle-in-Law of the deceased has been filed with the prayer for allowing the application and grant (Transit) Anticipatory Bail Application to the applicants in Case Crime No. 0682 of 2024, under Section 108, 3(5) of the B.N.S., Police Station Marathahalli, District Bengaluru City, State of Karnataka, for a period of six weeks on such condition as may be imposed by this Court.

Heard Sri Manish Tiwary, learned Senior Counsel assisted by Sri Aushim Luthra, Sri Ashutosh Kumar Sand, learned Government Advocate assisted by Sri Roopak Chaubey, learned AGA-I, Dr. Rupesh Singh, under the authority of Sri Rajeev Kumar Singh, who has put in appearance on behalf of the first informant and perused the record.

Sri Manish Tiwary, learned Senior Counsel, at the very outset submits that the Applicant Nos. 1, 2 & 3, who are Wife of the deceased, Mother-in-Law of the deceased and Brother-in-Law of the deceased have already been arrested by the Police of the Bengaluru City and the application of grant of (Transit) Anticipatory Bail on their behalf has been rendered incompetent. The present (Transit) Anticipatory Bail Application is being pressed on behalf of the Applicant No. 4, Sri Sushil Singhanian son of Banwari Lal Singhanian alone.

An FIR giving rise to the Case Crime No. 0682, Police Station Marathahalli, District Bengaluru City, State of Karnataka, under Sections 108, 3(5) of the B.N.S. was lodged on 09.12.2024 by the

first informant Bikas Kumar son of Pawan Kumar Modi, who happens to be the brother of the deceased, Atul Subhash with the allegation that the applicants have colluded and filed false cases against the brother of the first informant namely Atul Subhash and were pressurizing him to part with Rs. 3 Crores for the settlement for the said cases and demanded Rs. 30 Lacs to see his 4 years old son. The Applicant No. 2, Nisha Singhania is alleged to have pressurized her son-in-law (the deceased) to part with a sum of Rs. 30 Lacs to see his son and mocked the brother of the first informant to either part with Rs. 3 Crores or die by committing suicide. The brother of the first informant was mentally and physically disturbed and on account of the harassment meted out to him at the instance of the applicants committed suicide.

Learned Senior Counsel has already submitted that the Applicant Nos. 1, 2 & 3 have been arrested and there is a reasonable apprehension of the Applicant No. 4, Sri Sushil Singhania son of Banwari Lal Singhania, the uncle-in-law of the deceased to be arrested also.

It has been argued that the arrest have been made on the basis of alleged suicide note and a video which have gone viral over the internet and the Applicant No. 4 is facing the media trial of the highest level. It has been argued that the Applicant No. 4 is an elderly person 69 years of age and has a chronic medical condition and virtually incapacitated and there is no question of abetting the suicide by the brother of the first informant. It has also been argued that there is a distinction between the abetment and harassment and if the suicide note is taken on its face value the allegations leveled at most would be taken to be harassment for implicating the deceased in false cases and extracting huge sums of money. In any case, the offence under Section 108, 3(5) of the B.N.S. cannot be said to be made out.

It has also been argued that the Applicant No. 4 be granted protection for reasonable time so that he is in a position to place his version before the Court and the authorities concerned and take recourse to remedy available to him under the law before the Court in the State of Karnataka wherefrom the FIR emanates. Prayer for granting (Transit) Anticipatory Bail Application has, accordingly, been made.

Per contra, Sri Ashutosh Kumar Sand, learned Government Advocate, assisted by Sri Roopak Chaubey, learned AGA-I as well as Dr. Rupesh Singh, under the authority of Sri Rajeev Kumar Singh, A/R No. 0528/2012, who has put in appearance on behalf of

the first informant submits that specific allegation against the Applicant No. 4 has been levelled in the suicide note, which is sufficient material to implicate the applicant.

Reliance upon the decision of the Apex Court in the case of ***Priya Indoria Vs. State of Karnataka and others***, reported in **2024 (4) SCC 749** has been placed to submit that limited anticipatory bail in the form of interim protection under Section 438 Cr.P.C. with respect to FIR registered outside the territorial jurisdiction of a Court may be granted subject to certain conditions as laid down in Paragraph No. 36 of the said judgment. The case of the Applicant No. 4 does not fall in any of the conditions enumerated by the Apex Court and no indulgence be granted. The relevant Paragraph Nos. 36 & 37 are quoted herein below:-

36. In view of what we have discussed above, we are of the view that considering the constitutional imperative of protecting a citizen's right to life, personal liberty and dignity, the High Court or the Court of Session could grant limited anticipatory bail in the form of an interim protection under Section 438 of Cr.P.C. in the interest of justice with respect to an FIR registered outside the territorial jurisdiction of the said Court, and subject to the following conditions:

(i) Prior to passing an order of limited anticipatory bail, the investigating officer and public prosecutor who are seized of the FIR shall be issued notice on the first date of the hearing, though the Court in an appropriate case would have the discretion to grant interim anticipatory bail.

(ii) The order of grant of limited anticipatory bail must record reasons as to why the applicant apprehends an inter-state arrest and the impact of such grant of limited anticipatory bail or interim protection, as the case may be, on the status of the investigation.

(iii) The jurisdiction in which the cognizance of the offence has been taken does not exclude the said offence from the scope of anticipatory bail by way of a State Amendment to Section 438 of CrPC.

(iv) The applicant for anticipatory bail must satisfy the Court regarding his inability to seek anticipatory bail from the Court which has the territorial jurisdiction to take cognizance of the offence. The grounds raised by the applicant may be -

a. a reasonable and immediate threat to life, personal liberty and bodily harm in the jurisdiction where the FIR is registered;

b. the apprehension of violation of right to liberty or impediments owing to arbitrariness;

c. the medical status/ disability of the person seeking extraterritorial limited anticipatory bail.

37. It would be impossible to fully account for all exigent circumstances in which an order of extra territorial anticipatory bail may be imminently essential to safeguard the fundamental rights of the applicant. We reiterate that such power to grant extra-territorial anticipatory bail should be exercised in exceptional and compelling circumstances only which means where, denying transit anticipatory bail or interim protection to enable the applicant to make an application under Section 438 of CrPC before a Court of competent jurisdiction would cause irremediable and irreversible prejudice to the applicant. The Court, while considering such an application for extra-territorial anticipatory bail, in case it deems fit may grant interim protection instead for a fixed period and direct the applicant to make an application before a Court of competent jurisdiction.

Prima-facie, having heard learned counsel for the parties and having perused the record, particularly, the suicide note, which has been brought on record as Annexure No. 3 to the affidavit filed in support of the Transit Anticipatory Bail Application, I find that the allegations for instigating suicide has been raised primarily against the Principal Judge, Family Court, Jaunpur, Smt. Reeta Kaushik, Mother-in-Law of the deceased namely Smt. Nisha Singhania, Wife of the deceased namely Smt. Nikita Singhania, and so far as the Applicant No. 4 is concerned, the allegations appear to be limited to extending threats to the deceased and his parents over the phone and in person for beating up, killing them and filing false cases.

In view of the law enunciated by the Apex Court as noted above, there is no fetter on the part of the High Court in granting a transit anticipatory bail to enable the Applicant No. 4 to approach the Courts including High Courts where the offence is alleged to have been committed and the case is registered. There is no doubt that the right to liberty is enshrined in Part-III of the Constitution of India and such rights cannot be impinged except by following procedure established by law.

Considering the above, the Court is of the opinion that the Applicant No. 4 is entitled to get the privilege of pre-arrest (Transit) Anticipatory Bail. Denying (Transit) Anticipatory Bail or interim protection to enable the Applicant No. 4 to make an application under Section 438 Cr.P.C. before a Court of Competent Jurisdiction would result in irremediable and irreversible prejudices in the facts and circumstances that stand attracted to the case of the Applicant No. 4.

Accordingly, it is directed that in the event of arrest of the Applicant No. 4, in connection with the Case Crime No. 0682 of 2024, under Section 108, 3(5) of the B.N.S., Police Station

Marathahalli, District Bangaluru City, State of Karnataka, he shall be released on (Transit) Anticipatory Bail on on anticipatory bail in the aforesaid case crime till the submission of police report, if any, under Section 173 (2) Cr.P.C., on furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the Magistrate/Court concerned. with the following conditions:-

(i) The applicant shall make himself available for interrogation by a Police Officer as and when required;

(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 or to any police officer;

(iii) The applicant shall not leave India without the previous permission of the Court and if he has passport, the same shall be deposited by him, before the S.S.P./S.P. concerned.

This protection is being granted for a period of four weeks from today of this order to enable the Applicant No. 4 to approach the competent Court for obtaining appropriate relief.

The (Transit) Anticipatory Bail Application stands **allowed**.

Order Date :- 16.12.2024

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