

IN THE COURT OF ADDITIONAL SESSIONS JUDGE JAMMU.

File No : 45412/2020
CNR No: JKJM010019932020
Date of Institution : 10.11.2020
Date of Order : 13.11.2020

Raj Kumari, Age 51 Years W/O Sh. Shamsher Singh R/O Village Tallian, Tehsil R.S Pura , District Jammu.

...Applicant.

Through : Mr. Vikram Sharma , Advocate.

Vs.

U.T of J & K through Incharge/SHO Police Station R.S Pura , Jammu.

...Non applicant .

Through : Ld. APP for U.T of J & K.

Case FIR No : 199/2020 Police Station R.S Pura , Jammu .
Offence u/Sec : 304-B/498-A/120-B IPC.

In the matter of : Application for bail in anticipation of arrest .

CORAM : Tahir Khurshid Raina
[UID NO: JK00055]

ORDER

13.11.2020 :-

1. On 10.11.2020 the above titled anticipatory bail application was transferred to this Court by Ld. Principal Sessions Judge , Jammu for disposal under law . The applicant-accused has sought anticipatory bail in case FIR No. 199/2020 lodged at Police Station R.S Pura Jammu under section 304-B/498-A/120-B IPC . It is further submitted that the applicant has not committed any offence . She is not involved in any unlawful activity , much less kind of imputation made against her in the said FIR . She is suffering from multi ailments , quite aged woman and presently under treatment in a Military hospital .

2. On transfer of this bail application to this court and after considering the averments made in the same , notice was issued to the Ld. APP to file report from the concerned Police Station . Same was filed on 11.11.2020 . However , after perusal of the report , a necessity for perusal of CD file was felt and direction for production of same

was given . Accordingly CD file was produced by the I.O of the case before the Court .

3. Heard the counsel for the applicant and Ld. APP for U.T of J & K and perused the CD file .

4. As per C.D file , a person named Balbir Singh S/O Sant Ram R/O Kotli Charaka , Bishnah lodged a complaint at Police Station R.S Pura Jammu on 11.10.2020 for initiation of criminal proceedings against the in-laws of his daughter Manju Charak , Age 32 years , who has committed suicide on account of continuous cruelty and torture by her in-laws for demand of dowry . The applicant-accused along with her two sons which includes husband of the deceased stand booked for commission of offence of dowry death u/Sec 304-B IPC and both the brothers are presently behind the bar , where as applicant is untraced whose custody is required .

5. On further perusal of the CD file it is found that there are prima facie allegations against the applicant-accused who is the mother in law of the deceased , that she has been continuous trouble shouter for deceased and has been giving physical and mental torture to the deceased on account of demand of dowry , which made the matrimonial life of the deceased quite frustrating . This fact deceased has been sharing with her family members at her paternal home . Finally she succumbed to these cruelties and found solace of her agonies only in putting end to her life . Of all the material available in the CD file , the complicity of the accused-applicant is on the face of the record .

6. It is quite unfortunate that in a society where we talk of women protection and their empowerment so vehemently and vociferously , but what is generally found that it is the woman who is pitted against a woman , a source of threat for another woman in the family , especially in the matrimonial home . If mother-in-law does not behave responsibly and like a mother to her daughter-in-law , she feels insecure and threatened . In all such offences like 306 IPC , 304-B IPC , we find that mother in law of the deceased is accused of torturing her for demand of dowry and raise such other

unpleasant issues for her to such an extent that she either flees away from the matrimonial home or succumbs to these physical and mental cruelties . The ideal expectation is that mother-in-law should act more as a mother to give more confidence and sense of security to her daughter-in-law to survive joyfully to her fullest to make the matrimonial home an abode of love and peace for the entire family. However, by raising such detestable issues like that of dowry or other detestable issues , not only the matrimonial home turns into a hell for daughter-in-law but it finally vitiates the wholesome atmosphere of the entire family which sometimes culminates into such horrible happenings like the present one .

6. Fact remains , by resorting to such illegal demands by mother-in-law and other in-laws , they not only frustrate the life of their daughter-in-law but even of their own son and pushes it to the brink of disaster as has happened in the instant case. What is expected from parents in law , that even if such demands are raised by their son , they should reprimand him in the very first instance and give protection to the daughter in law so that family as a whole is saved from mess and unpleasant happenings . If not , it finally brings bad name for the family and disturbs its peace for all times to come .

7. In the instant case if the parents in law would have played a very positive role in the first instance , probably they would have been saved from this very awkward situation which they are facing right now at the moment . Now the unfortunate prevailing situation which the family is facing is that the daughter in law has committed suicide on account of alleged torture , husband and brother-in-law are behind the bar , Applicant-accused who is mother in law is struggling to be saved from Jail ,and the poor innocent of four years is now child of broken family , missing the love and care of all . This is the most wrenching and undesired happening in any family which we are experiencing day in and day out in our society .

8. The dowry death crime is on rise and inspite of all efforts there is no

decline in its rising graph . This court has time and again shown its concern for spate in such offences and in its last order in a similar case has appealed for awakening of moral conscious of the society towards this crime so that society at large gets sensitized and awakened to curb this crime to its hilt . I am now reiterating my concern for awakening the moral conscious of the society towards such horrible happenings in our families . Fact remains that unless society as a whole is not convictionally ready to abhor and oppose it to , laws are not going to succeed in curbing the menace .

9. Keeping in view the gravity of this burgeoning crime in the society , through the medium of this order I convey my concern to the govt to establish marriage counseling Centers in every District , where especially before the celebration of marriage , the couples along with their family members be called to have parleys with the experts of the field who can guide them how to behave to each other in the new relationship , based on social , moral , ethical and religious sanctions . I have felt necessity to convey this concern for the reason that the misunderstandings in relationships between daughter-in-law and her in-laws if not settled and shaped up properly , results into horrible happenings which finally leads the entire family into mess , even sometime culminates into horrible criminal cases like in hand . The Counseling Centers will be entrusted with the responsibility of pre and post marital parleys between the families to ensure harmonious and peaceful settlement of matrimonial misunderstandings .

10. It must be remembered that greater good of the society is the star objective of the welfare state . Therefore , what is suggested by the court to the govt is in furtherance of that lofty objective to ensure marriage institution and matrimonial homes to grow smoothly and lovably . And the glaring fact is that our magisterial courts , Matrimonial Courts and women cells are flooded with complaints based on matrimonial disputes , which vindicate my concern and suggestion .

11. Now coming to the instant case , the gravity of the offence is on the face of

the record as a young lady of aged 32 years , who was a mother of a child of 4 years age has died by committing suicide who , as alleged has been a constant victim of physical and mental torture on account of demand of dowry by mother-in-law (applicant here in), husband and brother-in-law and she finally ended her life by committing suicide . Quite unfortunate .

12. The investigation in the case is going on and the other two accused are behind the bar . With regard to applicant-accused , the I.O has stated at the bar that he was unable to trace her out and has only come to know about her whereabouts when this application was filed before the court . It is stated by his counsel that she is under some treatment in Military hospital , Jammu . From the material on record annexed with the application , it is inferred that she stands discharged from the hospital on 23.10.2020 . However , there is no such material on record which suggests that her ailment is so fatal that she be granted anticipatory bail on this ground in such a serious offence where in she has been projected as the main trouble shouter for the deceased to commit suicide .

13. Ld. Counsel for the applicant has referred to a proviso attached to section 437 Cr.P.C whereby a woman and infirm can be granted bail in non bailable offences . Fact remains that this provision is a directive provision as held by our own Hon'ble High Court and its application depends upon facts and circumstances of each case . In the case in hand which is quite serious in its gravity and complicity of accused-applicant is quite explicit , does not entitle her for grant of anticipatory bail.

14. Fact remains that Anticipatory bail is meant only for those bonafide persons who are unnecessarily roped in an offence on account of some vengeance etc and not for those who are explicitly involved in serious offences like dowry death and seek anticipatory bail . Completely unsustainable prayer .

15. In view of it , what stand discussed in the foregoing paras , this application is accordingly rejected .

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C.D file is hereby returned to the I.O of the case.

Copy of this order be forwarded through Ld. APP of this Court to Chief Secretary and D.G.P of U.T of J & K Govt for perusal and consideration .

Sd/-

Announced
13.11.2020

(Tahir Khurshid Raina)
Additional Sessions Judge
Jammu.
[UID NO: JK00055]

