

Court No. - 69

**Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2651 of 2022**

Applicant :- Mujammil

Opposite Party :- State Of U.P. And Another

Counsel for Applicant :- Pushpendra Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

Heard learned counsel for the applicant as well as learned A.G.A. for the State and perused the record.

The present application has been moved by the accused-applicant- Mujammil, in Case Crime No.9 of 2022, under Sections 498A, 323, 504 I.P.C. and Section 3/4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019, Police Station Sikandrabad, District Bulandshahr, with the prayer to enlarge him on anticipatory bail.

Learned counsel for the applicant while pressing the anticipatory bail application submits that the instant case is a glaring example of misuse of Section 498A I.P.C. as admittedly the first information report in this case has been lodged after 14 years of marriage. In the intervening period of 14 years, no complaint of any kind has been made by the informant against the applicant pertaining to any cruelty committed in lieu of demand of dowry and thus suddenly after 14 years of marriage demand of dowry and cruelty in lieu thereof could not be believed.

While referring to the paper placed at page 40 of the paper book allegedly moved by the informant (wife of the applicant) to the Chief Minister of the State, it is vehemently submitted that the informant was pressuring the applicant to lodge first information report against the persons named in that application and when the applicant did not lodge F.I.R., she became annoyed, left her matrimonial home and lodged the instant F.I.R. It is vehemently stated that all the allegations pertaining to demand of dowry and committing cruelty in lieu thereof are patently false, absurd and could not be believed and the applicant has not pronounced 'Talaq' as claimed by the informant and he is ready to keep the informant with him and is ready to do all what is necessary to save his marriage and to show his bonafide the applicant is ready to deposit Rs.15,000/-, which may be paid to the informant and the matter be referred to the Mediation Centre as there is every possibility that by way

of mediation the differences between the applicant and the informant could be resolved and the matrimonial dispute may be amicably settled.

It is further submitted that the investigating officer is not investigating the case in right perspective and despite there is no evidence or material available against the applicant, he is making all out efforts to arrest the applicant in violation of the law laid down by Hon'ble Supreme Court in ***Arnesh Kumar v. State of Bihar***, (2014) 8 SCC 273 and thus protection from arrested be granted to him.

Learned A.G.A. on the other hand submits that allegations of the F.I.R. has been supported by the informant and her statement recorded under Section 161 Cr.P.C. and therefore, the applicant is not entitled for any relief.

Having heard learned counsel for the parties and having perused the record, it appears to be a matrimonial dispute. The first information report admittedly has been lodged after 14 years of marriage. The applicant and the informant are also having three children. It has been vehemently submitted on behalf of the applicant that the applicant has not pronounced 'Talaq' and he is ready to do all what is necessary to save his marriage and if proper persuasion is made through the mode of mediation, however, for that purpose consent of the opposite party no.2 is required. There is every possibility that the differences between the parties could be resolved and distorted matrimonial relationship should be restored. Thus, the matter requires consideration.

Issue notice to the opposite party no.2 returnable within 30 days.

Steps in this regard be taken by learned counsel for the applicant within next four working days.

List this case on 12.05.2022.

It is provided that till the next date of listing in the event of arrest of the applicant namely **Mujammil** involved in the above noted case, he shall be released forthwith on anticipatory bail on his furnishing personal bond of **Rs.25,000/-** and two sureties each in the like amount to the satisfaction of the Station House Officer of the Police Station concerned/ Investigating Officer with the following conditions:-

(1) The applicant shall make himself available for interrogation or for discovery of any fact by a police officer as and when

required;

(2) 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;

(3) The applicant shall not leave the country without the previous permission of the Court.

(4) The applicant shall deposit his passport with the trial court and if he has not been issued any passport, an affidavit in this regard shall be filed before the trial court.

The applicant as submitted by him shall deposit Rs.15,000/- with the Mediation Center of this Court and if the same is not deposited within a week from today, the instant order shall be treated in abeyance.

Order Date :- 7.4.2022

Anupam S/-