

HIGH COURT OF UTTARAKHAND AT NAINITAL

Anticipatory Bail Application No. 112 of 2022

Anjali Bahuguna & another ...Applicants

Versus

State of Uttarakhand & OthersRespondent

Present:-

Mr. Piyush Sammal and Ms. Sarita Bisht, Advocates for the applicant.

Mr. V.K. Gemini, Deputy Advocate General along with Mrs. Meena Bisht, Brief Holder for the State.

Mr. Vipul Sharma, Advocate for the Informant.

Hon'ble Ravindra Maithani, J. (Oral)

Applicants- Anjali Bahuguna and Maheshanand Kaushik seek anticipatory bail, in FIR No. 0159 of 2022, under Section 306 of IPC, Police Station Banbhoolpura, District Nainital.

2. Heard learned counsel for the parties and perused the record.

3. According to the FIR, the applicant-Anjali Bahuguna has always abused and threatened her father-in-law and mother-in-law to their lives. She wanted to grab their property. In the past also, the applicant-Anjali Bahuguna had demanded Rs.40 lakhs from her in-laws. Subsequently, applicant-Anjali Bahuguna lodged a report of molestation

against her father-in-law, due to which, H.R. Bahuguna, the father-in-law of the applicant-Anjali Bahuguna went into depression and he committed suicide on 23.05.2022.

4. Learned counsel for the applicants would submit that no offence under Section 306 of IPC is made out. Deceased-H.R. Bahuguna had molested the daughter of the applicant-Anjali Bahuguna, of which an FIR was lodged on 23.05.2022 against the deceased-H.R. Bahuguna under Section 7/8 of the Protection of Children from Sexual Offences Act, 2012 and Section 354 of IPC. It is argued that the victim, i.e. the daughter of the applicant-Anjali Bahuguna, in a video recording confirmed that she was molested by her grandfather. It is also argued that, in fact, there is no role against the applicant-Maheshanand. It is a case of anticipatory bail.

5. On the other hand, learned counsel appearing for the informant-Ajay Bahuguna would submit that, according to a complaint filed by Anjali Bahuguna in the competent court, her daughter was molested by the deceased-H.R. Bahuguna in the year 2020. It is argued that in the month of December, 2021, proceedings under Section 107/116 of the Code of Criminal Procedure, 1973 ("the Code") were initiated against informant-Ajay Bahuguna as well as against applicant-Anjali Bahuguna. But, in those proceedings when parties entered into settlement, it is argued that no allegations of molestation against the

deceased-H.R. Bahuguna were ever raised by the applicant-Anjali Bahuguna.

6. Learned counsel for the informant would submit that, in fact, the applicant-Anjali Bahuguna wanted to grab the property of her father-in-law. She was threatening her in-laws. Finally, in order to tarnish the image of the family, she lodged a false report against the father-in-law of molestation, which hit the self-esteem of a deceased and he committed suicide.

7. It is a most unfortunate incident. Deceased-H.R. Bahuguna climbed on a water tank and committed suicide by firing. He claimed that he had been falsely implicated by the applicant-Anjali Bahuguna of molestation of his granddaughter. On behalf of the informant, a transcript of conversation between the victim i.e. the daughter of applicant-Anjali Bahuguna and her uncle, son of the deceased is enclosed as Annexure-9 with the counter affidavit of the informant, to argue that the victim has stated that she was pressurized to speak against her grandfather. On the other hand, on behalf of the applicants along with rejoinder affidavit, Annexure-5A has been filed, which is stated to be a video transcript of the recording of the victim, in which, it is claimed that the victim has stated that her grandfather did molest her.

8. Anticipatory bail is a step to protect personal liberty of a person in the eventuality of arrest. Even otherwise, arrest is not a routine and mechanical exercise to be conducted

by the Investigating Officer. There should be cogent reasons to arrest a person. The anticipatory bails are considered on various parameters including gravity of offence, tempering with the evidence, the impact on society, chances of repeat offence, etc.

9. It is a case where according to the applicant-Anjali Bahuguna, her daughter was molested by her father-in-law, H.R. Bahuguna. A report was lodged on 23.05.2022. A complaint was also filed by applicant-Anjali Bahuguna against H.R. Bahuguna, her father-in-law and others. According to the informant, it was a false case. Both the parties have filed transcript of the victim of the molestation. On the one hand, according to the informant, the victim has stated that she was compelled to tell a lie against her grandfather, whereas according to the applicant, the victim still confirms that she was molested.

10. Having considered the submissions, this Court is of the view that this is a case in which the applicants should be granted anticipatory bail. The instant anticipatory bail application deserves to be allowed.

11. The anticipatory bail application is allowed.

12. In the eventuality of arrest, the applicants shall be enlarged on bail on their furnishing the personal bond in the sum of ₹20,000/- with two sureties, each in the like amount, to the satisfaction of the Investigating Officer ("IO"). In addition to

it, the applicants shall also comply with the following conditions:-

- (i) The applicants shall co-operate with the investigation.
- (ii) The applicants shall not approach any witness in any manner, whatsoever.
- (iii) The applicants shall not leave the country without prior permission of the concerned court.
- (iv) The applicants shall deposit their passport with the Investigating Officer ("IO"). The passport may only be returned by the order of the court concerned. In case the applicants do not have passport, they shall give an undertaking to that effect to the IO.
- (v) The applicants shall also give an undertaking on (i), (ii) & (iii) above.

(Ravindra Maithani, J.)
05.09.2022

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