

(2020) 06 MP CK 0018

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 14803 Of 2020

Smt. Rajni Kushwah

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 15-06-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 304B, 498A
Dowry Prohibition Act, 1961 — Section 3, 4
Evidence Act, 1872 — Section 114

Citation : (2020) 06 MP CK 0018

Hon'ble Judges : Vishal Mishra, J

Bench : Single Bench

Advocate : Neeraj Dhamniya, Ravindra Singh Kushwah

Final Decision : Allowed

Judgement

In the wake of unprecedented and uncertain situation due to outbreak of the Novel Corona virus (COVID-19) and considering the advisories issued by the Government of India, this application has been heard and decided through video conferencing to maintain social distancing. The parties are being represented by the respective counsel through video conferencing, following the norms of social distancing/ physical distancing in letter and spirit.

Heard the learned counsel for the parties.

The applicant has filed this first application u/S.438 Cr.P.C. for grant of anticipatory bail as she has apprehension of her arrest in connection with Crime No.58/2020 registered at Police Station Gohad, Distt. Bhind for the offences punishable under Sections 304-B and 498-A of IPC and Section 3/4 of Dowry Prohibition Act.

It is submitted by the counsel for the applicant that the applicant is Jethani of the deceased. There are omnibus allegations against all the accused persons in

the complaint. Husband is already in custody. She is ready to abide by all the terms and conditions which may be imposed by this court while considering the application for grant of anticipatory bail. The applicant has shown her willingness to contribute an amount of Rs.5000/- towards the PM Care Fund. There is no possibility of her absconding or tampering with the prosecution case. Counsel for the applicant prays for grant of anticipatory bail to the applicant.

Per contra, Dy. Advocate General for the State opposed the application stating that there are specific allegations against all the co-accused persons and the genuineness of the report is also reflected from the fact that that father-in-law and mother-in-law are not impleaded in the case. He prayed for rejection of the anticipatory bail application.

At this stage, learned counsel for the applicant submits that the applicant is pregnant and the documents pertaining to pregnancy is also filed. She undertakes to surrender the remaining co-accused persons within two days and to this effect, she is ready to submit undertaking.

The Hon'ble Supreme by order dated 23.03.2020 passed in the case of IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS in SUO MOTU W.P. (C) No.1/2020 has directed all the States to constitute a High Level Committee to consider the release of prisoners in order to decongest the prisons. The Supreme Court has observed as under :-

"The issue of overcrowding of prisons is a matter of serious concern particularly in the present context of the pandemic of Corona Virus (COVID - 19).

Having regard to the provisions of Article 21 of the Constitution of India, it has become imperative to ensure that the spread of the Corona Virus within the prisons is controlled. We direct that each State/Union Territory shall constitute a High Powered Committee comprising of (i) Chairman of the State Legal Services Committee, (ii) the Principal Secretary (Home/Prison) by whatever designation is known as, (ii) Director General of Prison(s), to determine which class of prisoners can be released on parole or an interim bail for such period as may be thought appropriate. For instance, the State/Union Territory could consider the release of prisoners who have been convicted or are under trial for offences for which prescribed punishment is up to 7 years or less, with or without fine and the prisoner has been convicted for a lesser number of years than the maximum.

It is made clear that we leave it open for the High Powered Committee to determine the category of prisoners who should be released as aforesaid, depending upon the nature of offence, the number of years to which he or she has been sentenced or the severity of the offence with which he/she is charged with and is facing trial or any other relevant factor, which the Committee may consider appropriate."

Considering the overall facts and circumstances of the case and also present scenario of Covid-19 pandemic and the medical documents submitted by the

present applicant showing her pregnancy, this Court deems it appropriate to allow this anticipatory bail application.

Accordingly, application is allowed subject to condition that the applicant will submit undertaking at the time of furnishing on bail bond that she will surrender her husband as well as other co-accused Devar of the deceased to the effect that they will surrender within seven days. Only after submission of undertaking the application is treated to be allowed.

It is hereby directed that in the event of arrest, the applicant shall be released on anticipatory bail on her furnishing personal bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one solvent surety of like amount to the satisfaction of Investigation Officer/trial Court, as the case may be with submission of written undertaking that she will abide by the terms and conditions of different circulars, orders as well as guidelines issued by Central Government, State Government as well as Local Administration for maintaining social distancing, hygiene etc to avoid Novel Corona Virus (COVID-19) pandemic and she will have to install Arogya Setu App, if not already installed.

This order will remain operative subject to compliance of the following conditions by the applicant :-

1. The applicant will comply with all the terms and conditions of the bond executed by her;
2. The applicant will cooperate in the investigation/trial, as the case may be;
3. The applicant will not indulge herself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade her from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The applicant shall not commit an offence similar to the offence of which she is accused.
5. The applicant will not seek unnecessary adjournments during the trial; and
6. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.
7. The applicant shall deposit Rs.5000/- in PM CARE Fund having Account Number : 2121PM20202, IFSC Code: SBIN0000691, SWIFT Code : SBININBB104, Name of Bank & Branch : State Bank of India, New Delhi Main Branch within seven days from today.
8. The applicant will inform the concerned S.H.O. of concerned Police Station about her residential address in the said area and it would be the duty of the Dy. Advocate General to send E-copy of this order to SHO of concerned police station as well as Superintendent of Police, District Bhind who shall inform the concerned SHO regarding the same.

Application stands allowed.

The applicant shall install Arogya Setu App in her mobile immediately and would intimate her place of residence to the SHO of concerned Police Station; where she reside. Applicant further submits the undertaking to the effect that she will abide by the terms and conditions of different circulars, orders as well as guidelines issued by Central Government, State Government as well as Local Administration for maintaining social distancing, hygiene etc to avoid Novel Corona Virus (COVIC-19) pandemic.

E-copy of this order be provided to the applicant and E-copy of this order be sent to the trial Court concerned for compliance. It is made clear that E-copy of this order shall be treated as certified copy for practical purposes in respect of this order.

CC as per rules.