



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.4564 OF 2024
(@ SLP(CRL.) No.13123/2024)

ASHA DUBEY

APPELLANT(S)

VERSUS

THE STATE OF MADHYA PRADESH

RESPONDENT(S)

O R D E R

1. The appellant is apprehending arrest for the offences punishable under Sections 80, 85, 108, 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short BNS) and Sections 3 and 4 of the Dowry Prohibition Act, 1961.
2. The appellant is the mother-in-law of the deceased. Pursuant

to the occurrence, the son of the appellant has already been arrested who is still in custody. The case of the prosecution is that the offence has been committed by the appellant along with the above mentioned co-accused.

3. Learned senior counsel appearing for the appellant submitted that she was not residing with the deceased at the relevant point of time. She is only the mother-in-law of the deceased. It is further submitted that even the High Court has observed that she was only present when her son was ill-treating the deceased.
4. Insofar as the proceedings initiated under Section 82 of the then Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') against the appellant are concerned, it is submitted that it is not as if there is a complete embargo to consider the application for grant of anticipatory bail.
5. Learned counsel appearing for the State and the learned senior counsel appearing for the informant placing reliance upon the judgment of this Court in State of Madhya Pradesh Vs. Pradeep Sharma, reported in (2014) 2 SCC 171, submitted that the appellant apart from non-cooperation has been declared as a proclaimed offender in terms of Section 82 of Cr.P.C. There are incriminating materials to implicate the appellant. In such view of the matter, the custodial interrogation is required.

6. The relationship between the appellant and the deceased is not in dispute. Admittedly, the son of the appellant has been arrested and he is still in custody. It is incorrect to state that pursuant to the interim protection granted, the appellant was not cooperating in the investigation and in fact despite communication sent by the appellant to investigating authority, the investigating authority has not called her for joining the investigation.
7. Considering the facts and circumstances of the case, we are of the view that the custodial interrogation of the appellant is not required.
8. Coming to the consideration of anticipatory bail, in the event of the declaration under Section 82 of the Cr.P.C., it is not as if in all cases that there will be a total embargo on considering the application for the grant of anticipatory bail.
9. When the liberty of the appellant is pitted against, this Court will have to see the circumstances of the case, nature of the offence and the background based on which such a proclamation was issued. Suffice it is to state that it is a fit case for grant of anticipatory bail, on the condition that the appellant shall cooperate with the further investigation. However, liberty is also given to the respondents to seek cancellation of bail that has been granted, in the event of a

violation of the conditions which are to be imposed by the Trial Court or if there are any perceived threats against the witnesses.

10. Accordingly, the impugned order stands set aside and the appellant is granted anticipatory bail, subject to the terms and conditions that may be imposed by the Trial Court.
11. The appeal is accordingly, allowed.
12. Pending application(s), if any, shall stand disposed of.

.....J.
[M.M. SUNDRESH]

.....J.
[ARAVIND KUMAR]

NEW DELHI;
12th NOVEMBER, 2024

ITEM NO.8

COURT NO.11

SECTION II-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 13123/2024

[Arising out of impugned final judgment and order dated 09-09-2024 in MCRC No. 33853/2024 passed by the High Court of Madhya Pradesh Principal Seat at Jabalpur]

ASHA DUBEY

Petitioner(s)

VERSUS

THE STATE OF MADHYA PRADESH

Respondent(s)

(IA No. 240336/2024 - APPLICATION FOR VACATION OF INTERIM ORDER)

Date : 12-11-2024 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Petitioner(s) Mr. Siddhartha Dave,, Sr. Adv.
Ms. Megha Karnwal, AOR
Mr. Lalit Rajput, Adv.
Mr. Aditya Thorat, Adv.
Mr. Nakul Chengappa, Adv.

For Respondent(s) Ms. Karuna Nundy, Sr. Adv.
Ms. Ruchira Goel, AOR
Ms. Rishika Rishabh, Adv.
Ms. Kanishka Gautam, Adv.

Mr. Nachiketa Joshi, A.A.G.
Ms. Mrinal Gopal Elker, AOR
Mr. Aditya Vaibhav Singh- G.A,, Adv.
Ms. Mrigna Shekhar, Adv.
Ms. Shruti Verma, Adv.

Mr. D.S. Parmar, AAG

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The relevant portion of the order reads as under:-

'Accordingly, the impugned order stands set aside and the appellant is granted anticipatory bail, subject to the terms and conditions that may be imposed by the Trial Court.'

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(SWETA BALODI)
COURT MASTER (SH)

(POONAM VAID)
COURT MASTER (NSH)

(Signed order is placed on the file)