ITEM NO.6 COURT NO.12 SECTION II

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. 6057/2021

(Arising out of impugned final judgment and order dated 23-07-2021 in CRMABA No. 8787/2021 passed by the High Court of Judicature at Allahabad)

VINOD KUMAR SHARMA & ANR. Petitioner(s)

VERSUS

STATE OF UTTAR PRADESH & ANR. Respondent(s)

(FOR ADMISSION and I.R. and IA No.99568/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.99566/2021-EXEMPTION FROM FILING O.T. and IA No.99572/2021-EXEMPTION FROM FILING AFFIDAVIT)

Date : 16-11-2021 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE R. SUBHASH REDDY
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s) Mr. Siddhartha Dave, Sr. Adv.
Ms. Pallavi Pratap, AOR
Mr. Prashant Pratap, Adv.
Mr. Usman Khan, Adv.
Mr. Shivam Goel, Adv.

For Respondent(s) Mr. Vinod Diwakar, AAG
Mr. Sarvesh Singh Baghel AOR
Mr. Vikas Bansal, Adv.
Mr. BN Dubey, Adv.
Mr. Sriharsh Nahush Bundela, Adv.

Mr. Mukesh Giri, Adv.
Mr. Sudhir Naagar, AOR

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

Heard Mr. Siddharth Dave, learned senior counsel appearing for the petitioners and Mr. Vinod Diwakar, learned Additional Advocate General for the State of Uttar Pradesh, Mr. Sudhir Naagar, learned counsel for respondent No.2.

...2/-

Petitioners who are the father-in-law and mother-in-law of the deceased are sought to be prosecuted for the offences under Sections 323, 498A, 304B, IPC read with section 3 & 4 of the Dowry Prohibition Act. Before the charge sheet was filed, they were granted anticipatory bail by this Court on 07.10.2020. In the said order granting bail, this Court had observed that, after charge sheet is filed, it is open for the petitioners to surrender and apply for the Regular Bail before the Competent Court. After filing the charge sheet, when application for grant of anticipatory bail is filed, impugned order is passed based on the observation made by this Court, in the earlier order.

Merely because it was kept open for the petitioners to surrender and apply for Regular Bail after filing of the charge sheet, the same does not preclude the petitioners to apply for anticipatory bail under Section 438 Cr.P.C. after filing of the charge sheet. It also cannot be said, that same is a second application for grant of anticipatory bail as pleaded by learned counsel appearing for respondents, on the same cause of action.

Further it is also brought to our notice that the husband of the deceased was granted Regular Bail after he was arrested. This Court while issuing notice also granted protection to the petitioners from arrest.

For the aforesaid reasons, we are of the view that it is a fit case for grant of anticipatory bail. The order impugned is set aside.

The special leave petition is disposed of granting anticipatory bail to the petitioners, subject to such conditions, to be imposed by the Trial Court.

Pending application(s) shall also stand disposed of.

(RAJNI MUKHI)
COURT MASTER (SH)

(DIPTI KHURANA)
COURT MASTER (NSH)