

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal No 657 of 2020
(Arising out of SLP (Crl) No 2976 of 2020)

Siddharth Udaiveer and Another

Appellant(s)

Versus

State of Uttar Pradesh and Others

Respondent(s)

ORDER

- 1 Leave granted.
- 2 By an order dated 13 February 2020, a learned Single Judge of the High Court of Judicature at Allahabad rejected the application¹ for anticipatory bail moved by the appellants under Section 438 of the Code of Criminal Procedure 1973.
- 3 The first appellant is the brother-in-law, while the second appellant is the brother of Shivam, who is alleged to have committed suicide on 25 September 2019. The following circumstances have been highlighted in support of the application for anticipatory bail:
 - (i) On 23 August 2019, Shivam married the alleged victim, who is a major, at an Arya Samaj Mandir. The marriage was registered before the Registrar of Marriages at Lucknow on 24 August 2019. A copy of the registration certificate is Annexure P-1 to the paper book;

1 Application No 1495/2020

- (ii) Shivam belonged to the *Dalit* community while the spouse was from a different caste;
- (iii) On 24 August 2019, a First Information Report was registered as Case Crime No 1022/2019 by the uncle of the alleged victim, implicating almost the entire family of Shivam of offences under Sections 363, 366 and 506 of the Indian Penal Code;
- (iv) On 25 September 2019, a joint petition² was filed under Article 226 of the Constitution by Shivam and the members of the family for quashing the FIR;
- (v) The Allahabad High Court in its order dated 25 September 2019, noted that in pursuance of its directions, the victim had appeared in-person and “expressed her willingness” to go with her parents. The writ petition was dismissed on that ground without prejudice to the right of the petitioners before the High Court to apply for anticipatory bail;
- (vi) Soon thereafter on 26 September 2019, Shivam committed suicide, which led to the registration of an FIR, being Case Crime No 0243/2019, at Police Station, Shahganj, Prayagraj;
- (vii) On 9 October 2019, the statement of the victim was recorded under Section 164 of the Code of Criminal Procedure, 1973 in which, *inter alia*, she has made allegations against Shivam and the appellants to these proceedings;
- (viii) The application for anticipatory bail was rejected by the Sessions Court, Jalaun on 4 December 2019 and by the High Court by the impugned order dated 13 February 2020; and
- (ix) The High Court has granted anticipatory bail to the sister of the deceased on 14 January 2020 and to two other members of the family, both of whom are women, on 27 January 2020.

- 4 Notice was issued on the Special Leave Petition on 17 July 2020 and an interim stay of arrest was granted. In pursuance of the notice, Mr Krishnanand Pandey, learned counsel has appeared on behalf of the State of UP and has filed a counter affidavit.
- 5 Mr Bhuwan Raj, learned counsel appearing on behalf of the appellants, while highlighting the above circumstances, urged that a fit case is made out for the grant of anticipatory bail. He has submitted that the alleged victim, who is admittedly a major (according to her own statement under S 164), married Shivam. Moreover, though she was living in Orai, she had accompanied the deceased. The marriage was performed on 23 August 2019 at an Arya Samaj Mandir and was registered before the Registrar of Marriages at Lucknow on 24 August 2019. Learned counsel submitted that following the dismissal of the petition by the Allahabad High Court, when the alleged victim stated that she wished to go with her parents, the boy committed suicide and an FIR has been registered. He submitted that the statement under Section 164 CrPC has been recorded on 9 October 2019, nearly two weeks after the order of the Allahabad High Court and it is evident from the circumstances of the case that not only the deceased, but the appellants, who are the brother and the brother-in-law of the deceased, have been falsely implicated.
- 6 On the other hand, Mr Krishnanand Pandey, learned counsel appearing on behalf of the State of UP has placed reliance on the statement of the victim under Section 164 CrPC and submitted that the denial of anticipatory bail was justified.
- 7 Since the proceedings in the criminal case emanating from the FIR are still pending, we are not expressing any view on the merits of the rival submissions. However, having regard to all the facts and circumstances, and having noticed the submissions which have been recorded above, we are of the view that the interim order of this Court should be confirmed and the appellants should be granted the benefit of anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973.

- 8 We accordingly direct that in the event of the arrest of the appellants, they shall be released forthwith on bail on such terms and conditions as may be imposed by the trial court in connection with Case Crime No 1022/2019 registered at Police Station Orai, District Jalaun, UP.
- 9 The appeal is allowed in the above terms.
- 10 Pending applications, if any, stand disposed of.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Indu Malhotra]

.....J.
[Indira Banerjee]

New Delhi;
October 7, 2020
CKB

ITEM NO.10

Court 3 (Video Conferencing)

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.2976/2020

(Arising out of impugned final judgment and order dated 13-02-2020 in CRMABA No. 1495/2020 passed by the High Court of Judicature at Allahabad)

SIDDHARTH UDAIVEER & ANR.

Petitioner(s)

VERSUS

STATE OF U.P. & ORS.

Respondent(s)

Date : 07-10-2020 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE INDU MALHOTRA
HON'BLE MS. JUSTICE INDIRA BANERJEE

For Petitioner(s)

Mr. Bhuwan Raj, AOR

For Respondent(s)

Mr. Krishnanand Pandeya, AOR

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

- 1 Leave granted.
- 2 The appeal is allowed in terms of the signed order.
- 3 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)
AR-cum-PS

(Signed order is placed on the file)

(SAROJ KUMARI GAUR)
BRANCH OFFICER