

SAMUNDER SINGH
v.
STATE OF RAJASTHAN & OTHERS

A

JANUARY 12, 1987

[M.P. THAKKAR AND B.C. RAY, JJ.]

B

*Code of Criminal Procedure, 1973: s. 438—Anticipatory bail—
When not to be granted.*

While the matter regarding the unnatural death of the daughter-in-law at the house of her father-in-law was still under investigation the High Court granted anticipatory bail to the accused in disregard of the magnitude and seriousness of the matter.

C

Subsequent to the filing of the appeal by special leave by the father of the deceased the investigation had been concluded by the police and challan filed, and the accused were released on bail by the Chief Judicial Magistrate.

D

Dismissing the appeal as infructuous, the Court,

HELD: The High Court was under no compulsion to exercise its jurisdiction to grant anticipatory bail in a matter of this nature. [980D]

E

The appropriate course to adopt was to allow the concerned Magistrate to deal with the case on the basis of the material before him at the point of time of accused's arrest in case they were arrested. It was, therefore, neither prudent nor proper for the High Court to have granted anticipatory bail which order was very likely to occasion prejudice by its very nature and timing. [980B-D]

F

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 22 of 1987.

From the Judgment and Order dated 29.10.1986 of the Rajasthan High Court in CrI. M.B.A. No. 1395/86

G

Gopal Subramaniam, A.M. Garg and R. Venkatarāmani for the Petitioner.

Dalveer Bhandari for the Respondents.

H

A The Judgment of the Court was delivered by

THAKKAR, J. The widespread belief that dowry deaths are even now treated with some casualness at all levels seems to be well grounded. The High Court has granted anticipatory bail in such a matter. We are of the opinion that the High Court should not have exercised its jurisdiction to release the accused on anticipatory bail in disregard of the magnitude and seriousness of the matter. The matter regarding the unnatural death of the daughter-in-law at the house of her father-in-law was still under investigation and the appropriate course to adopt was to allow the concerned Magistrate to deal with the same on the basis of the material before the Court at the point of time of their arrest in case they were arrested. It was neither prudent nor proper for the High Court to have granted anticipatory bail which order was very likely to occasion prejudice by its very nature and timing. We therefore consider it essential to sound a serious note of caution for future. The High Court is under no compulsion to exercise its jurisdiction to grant anticipatory bail in a matter of this nature. So far as the present matter is concerned, since it has become infructuous, we do not propose to pass any order. Subject to these observations, the appeal is dismissed.

P.S.S.

Appeal dismissed.