

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 660 of 2023

Applicant :- Devi Yadav

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- P.K. Singh, Anil Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri P.K. Singh, learned counsel for the applicant and Sri Deepak Kumar Singh, learned A.G.A. for the State as well as perused the record.
3. The present anticipatory bail application has been filed on behalf of the applicant in Case Crime No. 361 of 2017, registered under Sections 419, 420, 467, 468, 471, 120-B I.P.C. at Police Station- Chaubepur, District- Varanasi with a prayer to enlarge her on anticipatory bail.
4. As per prosecution story, the applicant is stated to have executed a sale deed by impersonating the mother of the informant in favour of the co-accused persons Durga Prasad and Gulab.
5. Learned counsel for the applicant has stated that the applicant is an illiterate lady and has nothing to do with the said offence. The said offence committed, if any, is by the co-accused persons. The executors and beneficiaries of the said sale deed are the members of one and the same family. The applicant is aged about 73 years and there is no criminal history to her credit. Learned counsel has stated that the case is triable by Magistrate and there is no likelihood of her fleeing from trial. The other co-accused persons have already been enlarged on anticipatory bail.
6. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against her. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. The applicant has apprehension of her arrest. Learned counsel has stated that the applicant undertakes that she has co-operated in the investigation and is ready to do so in trial also

failing which the State can move appropriate application for cancellation of anticipatory bail.

7. Per contra, learned A.G.A. has vehemently opposed the anticipatory bail application but unable to dispute the submissions raised by the learned counsel for the applicant.

8. On due consideration to the arguments advanced by learned counsel for the applicant as well as learned A.G.A. and considering the nature of accusations and antecedents of the applicant, the applicant is liable to be enlarged on anticipatory bail in view of the judgment of Supreme Court in the case of "***Sushila Aggarwal Vs. State (NCT of Delhi)***, (2020) 5 SCC 1". The future contingencies regarding the anticipatory bail being granted to applicant shall also be taken care of as per the aforesaid judgment of the Apex Court.

9. In view of the above, the anticipatory bail application of the applicant is allowed. Let the accused-applicant- **Devi Yadav** be released forthwith in the aforesaid case crime (supra) on anticipatory bail till the conclusion of trial on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

- (i). that the applicant shall make herself available for interrogation by a police officer as and when required;
- (ii). that the applicant shall not, directly or indirectly make any 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 any police officer or tamper with the evidence;
- (iii). that the applicant shall not leave India without the previous permission of the court;
- (iv). that in case charge-sheet is submitted the applicant shall not tamper with the evidence during the trial;
- (v). that the applicant shall not pressurize/ intimidate the prosecution witness;
- (vi). that the applicant shall appear before the trial court on each date fixed unless personal presence is exempted;
- (vii). that in case of breach of any of the above conditions the court below shall have the liberty to cancel the bail.

10. It is made clear that observations made hereinabove are exclusively for deciding the instant anticipatory bail application and shall not affect the trial.

Order Date :- 13.10.2023

Vikas

[Krishan Pahal, J.]