

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 9738 of 2021

Applicant :- Ram Lakhan Yadav

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

Counsel for Applicant :- Zaheer Asghar, Syed Ahmed Faizan, Syed Farman Ahmad Naqvi (Senior Adv.)

Counsel for Opposite Party :- G.A., Arvind Kumar Mishra

WITH

Neutral Citation No. - 2023:AHC:211074

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 12831 of 2021

Applicant :- Babu Lal Yadav

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

Counsel for Applicant :- Syed Farman Ahmad Naqvi (Senior Adv.), Syed Farman Ahmad Naqvi (Senior Adv.), Zaheer Asghar

Counsel for Opposite Party :- G.A.

AND

Neutral Citation No. - 2023:AHC:211074

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 16872 of 2021

Applicant :- Udbhav Dwivedi @ Udvav Dubey

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

Counsel for Applicant :- Zaheer Asghar, Syed Ahmed Faizan, Sr. Advocate

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List revised. Rejoinder affidavits filed by learned counsel for the applicants are taken on record.

2. All the three anticipatory bail applications are being decided by one common order, as they arise out of one and the same incident. Heard Sri Zaheer Asghar, learned counsel for the applicant as well as Sri Ashutosh Srivastava, learned A.G.A. for the State and also perused the record. Learned counsel for the informant is not

present.

3. The present anticipatory bail application has been filed on behalf of the applicants in F.I.R./Case Crime No. 0308 of 2018, under Sections 420, 467, 468, 471, 120-B IPC, Police Station Jangaha, District Gorakhpur, with a prayer to enlarge them on anticipatory bail.

4. As per prosecution story, the son of the applicant Ram Lakhan Yadav is stated to be wanted u/s 302 IPC, as such, the applicants alongwith other named co-accused persons Babu Lal Yadav and Udbhav Dwivedi @ Udvav Dubey are stated to have forged his birth certificate and transfer certificate, and thereby got him declared juvenile.

5. Learned counsel for the applicant has stated that the applicants are maliciously being prosecuted in the present case due to ulterior motive and have the apprehension of their arrest. The applicants have nothing to do with the said offence as alleged by the prosecution. Learned counsel has next stated that the FIR was instituted on 9.10.2018, the same day, when the son of the applicant Ram Lakhan Yadav was declared juvenile. It is further stated that the said order of declaring juvenile dated 9.10.2018 of the concerned Court has not been challenged by the informant anywhere to date. The said allegations levelled in the FIR stand falsified. It is further stated that despite the said fact, after investigation, the final report (charge sheet) has been submitted against the applicants and one Manoj Yadav for fudging his date of birth also.

6. It is next stated that the said co-accused person Manoj Yadav has been declared juvenile by the Additional Session Judge/Special Judge (Gangsters Act), Court No. 4, Gorakhpur vide order dated 10.8.2020 and the same was challenged by the informant by filing a Criminal Revision No. 1484 of 2020 before this Court and the same was dismissed on merits vide order dated 8.12.2022. It is next stated that both the orders for declaring the delinquents juvenile stand correct to date. As such, the applicants are entitled for anticipatory bail.

7. Several other submissions have been made on behalf of the applicants to demonstrate the falsity of the allegations made against them. The circumstances which, as per counsel, led to the false implication of the applicants have also been touched upon at length. In case, the anticipatory bail applications of the applicants are allowed, they will not misuse the liberty and shall cooperate

with trial.

8. On the other hand, learned A.G.A. has vehemently opposed the prayer for grant of anticipatory bail but unable to dispute the submissions raised by the learned counsel for the applicants.

9. On due consideration to the arguments advanced by the learned counsel for the parties and in view of the law laid down by the Apex Court in the case of "**Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC online SC 98**", the applicants are entitled to be granted anticipatory bail in this case.

10. Without expressing any opinion upon ultimate merits of the case either ways which may adversely affect the trial of the case, the anticipatory bail application of the applicants is **allowed**.

11. In the event of arrest of the applicants, **Ram Lakhan Yadav, Babu Lal Yadav and Udbhav Dwivedi @ Udvav Dubey**, involved in the aforesaid case crime number, shall be released on anticipatory bail till the conclusion of trial on furnishing personal bond with two sureties each in the like amount to the satisfaction of the Presiding Officer/Court Concerned, with the conditions that:-

- i. that the applicants shall make themselves available for interrogation by a police officer as and when required;
- ii. that the applicants 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 him from disclosing such facts to the court or to any police officer or tamper with the evidence;
- iii. that the applicants shall not leave India without previous permission of the court;
- iv. that the applicants shall not tamper with the evidence during the trial;
- v. that the applicants shall not pressurize/ intimidate the prosecution witness;
- vi. that the applicants shall appear before the trial court on each date fixed unless personal presence are exempted;

12. In case of breach of any of the above conditions, the court concerned shall have the liberty to cancel the bail granted to the applicants.

13. It is made clear that observations made in granting anticipatory bail to the applicants shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 3.11.2023\Shalini