Court No. - 78

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 11477 of 2021

Applicant :- Santosh Kumar
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- R.K. Mishra
Counsel for Opposite Party :- G.A.,Narendra Kumar Tiwari

Hon'ble Raj Beer Singh,J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State as well as Ms. Vedika Nath, learned counsel for the informant and perused the record.

2. The present application under Section 438 Cr.P.C. has been filed by the accused applicant seeking anticipatory bail in apprehension of his arrest in Case Crime No. 19 of 2021, under Section 420, 467, 468, 471, 409 IPC and Section 13(1)(a) of Prevention of Corruption Act, 1988, Police Station Shamli, District Shamli.

3. Learned counsel for the applicant submits that the applicant has apprehension of arrest in the aforesaid case whereas, there is no evidence against the applicant. The applicant has no criminal antecedents.The accused applicant was posted as Junior Engineer at the relevant time. The allegation against him and the other accused is that they prepared an estimate which was much more than the actual estimate for laying down the electricity lines. The offence was allegedly committed in the year 2011, however, the F.I.R. in question came to be registered in 2021. Applicant during investigation was on interim anticipatory bail and he never misused the liberty of bail. It is further submitted that the similarly placed co-accused Ashok Kumar has already been granted

anticipatory bail vide order dated 3.3.2023 passed in Criminal Misc. Anticipatory Bail Application U/sa 438 Cr. P. C. No. 11479 of 2021.

4. Learned AGA as well as Ms. Vedika Nath, learned counsel for the informant have opposed the prayer for bail but could not dispute the fact that the similarly placed co-accused has been granted anticipatory bail.

5. Considering the long delay in lodging the F.I.R. and the accused applicant being a public servant, this Court deem it appropriate to enlarge the accused applicant on anticipatory bail.

6. Therefore, it is provided that the applicant- **Santosh Kumar** shall be released on bail in the event of his arrest in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicant shall co-operate in the trial and will appear before the Investigating Officer as and when he is required and summoned by the Investigating Officer.

(ii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iv) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(v) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

Order Date :- 12.10.2023

HR

Digitally signed by :-
HEMANT RANJAN
High Court of Judicature at Allahabad