

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11236 of 2021

Applicant :- Nipendra And 6 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajay Kumar Mishra, Pradeep Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Compliance affidavit filed by learned A.G.A. is taken on record.
3. Heard Sri Siddharth Singh, learned Amicus Curiae for the applicants and Sri Anit Kumar Shukla, learned A.G.A. for the State as well as perused the record.
4. The present anticipatory bail application has been filed on behalf of the applicants in Case Crime No.135 of 2021, registered under Sections 147, 148, 149, 307, 323, 506, 336, 341 I.P.C. at Police Station- Rajabpur, District- Amroha with a prayer to enlarge them on anticipatory bail.
5. The present anticipatory bail application qua applicant nos. 3, 6 & 7, namely, Ankit Singh, Kamal Singh and Deepak Kumar was dismissed vide order dated 7.6.2021 of this Court as they were arrested. The present anticipatory bail application is being heard qua applicant nos. 1, 2, 4 and 5 only.
6. Learned Amicus Curiae for the applicants has stated that the present dispute is regarding Panchayat elections and FIRs were instituted from both the sides against each other. Learned Amicus Curiae has stated that the applicants were granted interim protection vide order dated 7.6.2021 of this Court and they have not misused it. 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. The applicants have apprehension of their arrest. The trial is still pending as per the compliance report filed in Court today. Learned Amicus Curiae has stated that the applicants undertake that they have co-

operated in the investigation and are 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 applicants.

8. On due consideration to the arguments advanced by learned counsel for the applicants as well as learned A.G.A. and considering the nature of accusations and antecedents of the applicants, the applicants are 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 applicants 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 applicants is allowed. Let the accused-applicants- **Nipendra Singh, Prince Kumar, Lovkeet and Atul Kumar** 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 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 them 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 the previous permission of the court;
- (iv). that in case charge-sheet is submitted 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 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.

11. Mr. Siddharth Singh, Amicus Curiae has assisted the Court very diligently. This Court provide that he shall be paid counsel's fee as Rs.15,000/-. The State Government is directed to ensure payment of aforesaid fee through Additional Legal

Remembrancer posted in the office of Advocate General at Allahabad to Mr. Siddharth Singh, Amicus Curiae, without any delay and, in any case, within 15 days from the receipt of a copy of this judgment/order.

Order Date :- 22.11.2023

Vikas

[Krishan Pahal, J.]