

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 4749 of 2023

Applicant :- Mahesh Chandra And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Dr. Akhilesh Kumar

Counsel for Opposite Party :- G.A.,Rajesh Kumar Sharma,Shobh Nath

Hon'ble Nalin Kumar Srivastava,J.

1. Heard learned counsel for the applicants, learned counsel for the informant as well as the learned AGA and perused the entire record. No one is present on behalf of the informant even in the revised call.

2. Earlier by the order dated 08.05.2023, the accused applicants were granted interim anticipatory bail by this Court till framing of charge. After investigation charge sheet has already been filed in the matter. The applicants have cooperated during that period and have not misused the said liberty. No custodial interrogation is required. There is no criminal history of the applicants as has been stated in paragraph-14 of the affidavit filed in support of the present anticipatory bail application. It has been stated in paragraph-9 of the rejoinder affidavit that similarly situated co-accused Murari Singh and Bhura @ Manpal have already been granted anticipatory bail by Co-ordinate Bench of this Court vide order 01.05.2023 passed in Crl. Misc. Anticipatory Bail Application No. 4844 of 2023, copy of which is annexed as annexure-1 to the rejoinder affidavit.

3. In ***Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1***, the Hon'ble Apex Court has settled the controversy finally by holding the anticipatory bail need not be of limited duration invariably. In appropriate case, it can continue upto conclusion of trial. It has been further held therein that anticipatory bail granted can, depending on the conduct and behavior of the accused, continue after filing of the charge sheet till end of trial.

4. It has been further held by the Hon'ble Apex Court that while considering an application for grant of anticipatory bail, the court

has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence including intimidating witnesses, likelihood of fleeing justice, such as leaving the country, etc.

5. It has further been held that Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion.

6. Since no incriminating material has been brought against the applicant in the notice of the Court, therefore, considering the entire facts and circumstances of the case and also the nature of accusation made against the applicant, the anticipatory bail application is allowed and the order dated 08.05.2023 granting interim anticipatory bail to the applicants is confirmed and made absolute till end of the trial, on the terms and conditions as mentioned in the said order dated 08.05.2023.

Order Date :- 6.11.2023

Shiraz