

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 9928 of 2023

Applicant :- Munna Kumar And Another

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

Counsel for Applicant :- Abhishek Kumar Chaubey

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. Second Supplementary affidavit filed on behalf of the applicants is taken on record.
2. Heard learned counsel for the applicants, learned AGA and perused the material available on record.
3. This application for anticipatory bail has been filed by applicants - **Munna Kumar** and **Md. Uzair Khan** in connection with Case Crime No.126 of 2018, under Sections 147, 148, 332, 352, 353, 336, 395, 435, 452, 427, 186, 506 & 412 I.P.C. and Section 7 of Criminal Law Amendment Act, 1932, P.S.- Anpara, District- Sonebhadra.
4. As per prosecution story, on 09.11.2018 at 3.45 pm, when contract workers of the HINDALCO Industries Limited, Renusagar Power Division Renusagar, Sonebhadra were protesting at the gate of Renusagar Power Division premises, the administration took action to remove about 100-150 persons from there. Some people left from there and some people were arrested. Subsequently, on the same day at 5.30 pm, 300 to 500 people gathered and vandalized the factory and hostel and set fire to the motorcycles parked in the factory and when the police retaliated against this, they also pelted stones at the police due to which the police personnel were injured. The miscreants entered the factory premises and damaged the factory property and vehicles parked there and looted the belongings of the hostel dwellers. 54 people were identified among these miscreants.
5. Learned counsel for the applicants submitted that the applicants have been falsely implicated in the present case due to ulterior motive, the applicants have no concern with the alleged incident. Learned counsel for the applicants submitted that the applicants

are labours working at HINDALCO Industries Limited, Renusagar Power Division Renusagar, Sonebhadra. There was some industrial dispute between the parties. He submitted that a compromise/agreement has taken place between the labourers and the aforesaid company in the presence of Conciliation Officer (ALC,Pipari) but the aforesaid company did not proceed in terms of the contract dated 11.10.2017. Thereafter, applicants filed a letter/objection before the aforesaid company and the Deputy Labour Commissioner, Mirzapur Range Pipari, Sonebhadra. Subsequently again a meeting was organized and agreement /compromise has been commenced between the labours (Applicants) and company on 30.12.2017 in the presence of Conciliation Officer (ALC, Pipari) who agreed upon to take action for redressing the entire problem of the labourers. It is also submitted that an Application u/s 482 Cr.P.C. No. - 14234 of 2019 was preferred by the applicants along with other co-accused persons, but however no protection was granted to the applicants in the aforesaid application u/s 482 Cr.P.C., which is still pending. It is further submitted that identically placed co-accused Kuldeep Pal, Pappu Gupta and Ishwar Sahai Pandey have been granted anticipatory bail by this Court vide order dated 30.10.2023 passed in Crl. Misc. Anticipatory Bail Application u/s 438 Cr.P.C. No. - 9923 of 2023.

6. Learned A.G.A. has opposed the prayer for anticipatory bail.

7. In this matter identically placed co-accused Kuldeep Pal, Pappu Gupta and Ishwar Sahai Pandey have been granted anticipatory bail by this Court vide order dated 30.10.2023 passed in Crl. Misc. Anticipatory Bail Application u/s 438 Cr.P.C. No. - 9923 of 2023.

8. In the present matter charge sheet has been submitted but 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.

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. 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.

9. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicants and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, in my view, it is a fit case for anticipatory bail to the applicants till conclusion of trial in the matter.

10. The anticipatory bail application is **allowed** accordingly.

11. In the event of arrest of the applicants in the aforesaid case crime, they shall be released on anticipatory bail till conclusion of trial on their furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the Court concerned with the following conditions :-

(i) The applicants shall make themselves available before the court concerned on the date fixed in the matter;

(ii) 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 / her from disclosing such facts to the Court or to any police officer;

(iii) The applicants shall not leave India without the previous permission of the Court and if they have passport, the same shall be deposited by them before the S.S.P./S.P. Concerned.

12. In case of default of any of the conditions, same may be a ground for cancellation of protection granted to the applicants.

Order Date :- 23.11.2023

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