

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 9923 of 2023

Applicant :- Kuldeep Pal And 2 Others

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. Heard learned counsel for the applicants, learned AGA and perused the material available on record.

2. This application for anticipatory bail has been filed by applicants- **1. Kuldeep Pal, 2. Pappu Gupta, 3. Ishwar Sahai Pandey** 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- Sonbhadra.

3. As per prosecution story, on 09.11.2018 at 3.45 pm, when contract workers of the HINDALCO Industries Limited, Renuagar Power Division Renuagar, Sonbhadra were protesting at the gate of Renuagar 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.

4. 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, Renuagar Power Division Renuagar, Sonbhadra. 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.

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

6. In this matter the identically placed co-accused Shiv Shankar Pal and Hira Lal have been granted anticipatory bail in Cr. Misc. Anticipatory Bail No.9991 of 2023 vide order dated 20.09.2023.

7. 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.

8. 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.

9. 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.

10. 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.

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

12. In the event of arrest of the applicants in the aforesaid case crime, they shall be released on anticipatory bail 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 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
- ii. The applicants shall not pressurize/ intimidate the prosecution witness.
- iii. The applicants shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are suspected.
- iv. The applicants shall not leave India without prior permission of the Court and if they have passport, the same shall be deposited by them before the S.S.P./S.P. concerned.

13. In case of breach of any of the above conditions, the Investigating Officer shall be at liberty to file appropriate application for cancellation of anticipatory bail of the applicants in accordance with law.

Order Date :- 30.10.2023

Fhd