

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 10476 of 2023

Applicant :- Anwar Ahmed

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohd. Naim Siddiqui, Prem Shankar Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. Supplementary affidavit filed on behalf of applicant in the Court today is taken on record.
2. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the material available on record.
3. Apprehending his arrest, the present anticipatory bail application has been filed on behalf of the applicant - Anwar Ahmad in Case Crime No. 958 of 2019, under Section 3/5/8 U.P. Prevention of Cow Slaughter Act, Police Station Colonelganj, District Prayagraj, with a prayer to enlarge him on anticipatory bail.
4. As per prosecution case from the Alto car nos. UP0-70 Y 7037 and UP-70 AG 6950, beef measuring 220kg. and 90 kg. respectively was recovered from the possession of co-accused Shahban and Mohd. Gaus, who confessed their guilt before the police and also narrated that the present applicant Aman and one Hasnain had come there to purchase the aforesaid beef. The first information report was lodged on 3.11.2019 and now chargesheet has been submitted.
5. It is submitted by the learned counsel for the applicant that the applicant is innocent and he has apprehension of his arrest in the above-mentioned case, whereas there is no credible evidence against her. He has been falsely implicated into this matter. Allegations levelled against the applicant are false. The investigation of the case has been completed and charge-sheet has been filed. It is further submitted that the name of the present applicant came into light on the basis of statement of co-accused persons, who were held by the police on the spot. It is further submitted that no incriminating article has been recovered from the

possession of the applicant or from a place under the control of the applicant. It is also submitted that neither applicant was owner nor driver of the aforesaid two four wheelers where from the huge quantity of beef was recovered by the police on spot. The applicant has been cooperative during the course of investigation and after submission of chargesheet no process has been issued against him by the court concerned and he has not been declared proclaimed offender. It is lastly submitted that no custodial interrogation is required in this matter from the applicant. Applicant has no criminal antecedents and as such he is entitled for anticipatory bail.

6. Learned A.G.A. has opposed the prayer for bail but however, could not dispute the factual aspect that applicant was not carrying the beef and as per confessional statement of co-accused Shahban and Mohd. Gaus he came on the spot for the purchase of same.

7. 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.

8. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, considering the confessional statements of co-accused the

nature of accusation, role of applicant 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 applicant till end of the trial in the matter.

9. The anticipatory bail application is **allowed**.

10. In the event of arrest of the applicant in the aforesaid case crime, he shall be released on anticipatory bail till end of the trial on his 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 applicant shall make himself available before the court concerned on the date fixed in the matter;

(ii) The applicant 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 applicant shall not leave India without the previous permission of the Court and if he has passport, the same shall be deposited by him before the S.S.P./S.P. Concerned.

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

Order Date :- 28.10.2023

Faridul