

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 10381 of 2022

Applicant :- Nanda Yadav @ Nandlal Yadav And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Hiralal, Kshitij Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. Supplementary Affidavit filed today is taken on record.
2. Heard learned counsel for the applicants as well as the learned AGA and perused the material available on record.
3. This anticipatory Bail application (under section 438 Cr.P.C) has been moved seeking bail in Case Crime No.85 of 2021, under Sections 3/5A/8 Cow Slaughter Act & under section 11 of Prevention of Animals Cruelty Act, 1960, Police Station Kandava, District Chandauli during pendency of trial.
4. It is submitted by the learned counsel for the applicants that the applicants are innocent and have no concern with the present matter. Allegations levelled against the applicants are false. The applicants were not arrested on the spot. The allegation in the First Information Report is that 12 cows were being carried by co-accused on the presumption that the same have been deemed to be taken by the accused for slaughtering. From the confessional statement of co-accused, applicants' name have been surfaced. Applicants' case is squarely covered under Section 438 Cr.P.C. Allegations levelled in the matter are not attracted. It is also submitted that if entire facts are taken into consideration, then also prosecution can only start on the basis of suspicion. The applicants have no criminal history. If the applicants are enlarged on bail, they will not misuse the liberty and will cooperate with the court. The applicants have apprehension of their arrest by the police any time.
5. Learned A.G.A. vehemently opposed the bail prayer of the applicants with the contention that the applicants are not entitled for anticipatory bail as prima facie case is made out. The apprehension of the applicants is not founded on any material on record, only on the basis of imaginary fear, the anticipatory bail cannot be granted.
6. The applicant granted anticipatory bail till the submission of the police report, under section 173(2) Cr.P.C. in Criminal Misc. Anticipatory Bail Application No.18852 of 2021 vide order dated 1.12.2021 and the same has not been misused. The name of the present applicant came to surface on the basis of confessional statement of co-accused. In this matter 12 cow progenies have been recovered but

no beef or dead animal has been recovered by the police.

7. Without expressing any opinion on the merits of the case and considering the nature of accusation and his antecedents, the applicants are entitled to be released on anticipatory bail in this case for the limited period considering the exception considered by the Hon'ble Supreme Court in the case of **Sushila Aggarwal vs. State (NCT of Delhi), 2020 SCC Online SC 98**.

8. In the event of arrest, applicants namely **Nandlal Yadav @ Nanda Yadav** and **Toofani @ Toofani** shall be released on anticipatory bail till the submission of police report, if any, under section 173 (2) Cr.P.C. before the competent Court on furnishing a personal bond of Rs. 25,000/- with two sureties each in the like amount to the satisfaction of the Station House Officer of the police station concerned with the following conditions:-

(i) the applicants shall make themselves available for interrogation by a police office as and when required;

(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 them from disclosing such facts to the Court or to any police office;

(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.

9. In default of any of the conditions, the Investigating Officer is at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicants.

10. The Investigating Officer is directed to conclude the investigation of the present case in accordance with law expeditiously preferably within a period of three months from the date of production a copy of this order independently without being prejudice by any observation made by this Court while considering and deciding the present anticipatory bail application of the applicants.

11. The application stands **disposed of**.

Order Date :- 6.12.2023

SFH