

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 10737 of 2023

Applicant :- Yatendra

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Manoj Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav,J.

1.Heard Mr. Manoj Kumar Srivastava, learned counsel for the applicant and learned Additional Government Advocate for the State.

2.This anticipatory bail application (under section 438 Cr.P.C.) has been moved seeking bail in Complaint Case Crime No.541 of 2019, under Sections 323, 395, 504, 506 IPC, Police Station Dholna, District Kashganj.

3.Learned counsel for the applicant submits that applicant has been falsely implicated in the present case just to harass the applicant. As per version of the impugned complaint case, the applicant and other co-accused persons armed with lathi, danda and country made pistol with the intention to kill, opened fire upon the informant and snatched Rs.45,000/- from the pocket of the informant. He further submits that the informant was not medically examined and there is no medical report. He further submits that on the basis of statement of complainant and witnesses under Sections 200 and 202 Cr.P.C., the applicant was summoned although there were several material contradictions in their statements. He further submits that the incident is alleged to have taken place on 24.02.2014 whereas the impugned complaint has been lodged on 26.03.2014. He further submits that similarly placed co-accused, namely, Surjan Singh @ Nekse Lal and Vyash Kanhiya Cchanchal have already been granted anticipatory bail by a coordinate Bench of this Court vide order dated 03.10.2023 passed in Criminal Misc. Anticipatory Bail Application No.10855 of 2023 and 10910 of 2023. The applicant is having no previous criminal history. He further submits that applicant has apprehension of imminent arrest and in case, the applicant is released on anticipatory bail, he will not misuse the liberty and would co-operate with the trial.

4.Learned A.G.A. has opposed the prayer for anticipatory bail of

the applicant but could not dispute the fact that co-accused have already granted anticipatory bail.

5.Hence without expressing any opinion on the merits of the case and considering the nature of accusations and antecedents of applicant, he is directed to be enlarged on anticipatory bail as per the Constitution Bench judgment of the Apex Court in the case of ***Sushila Aggarwal vs. State (NCT of Delhi)- 2020 SCC Online SC 98***. The future contingencies regarding anticipatory bail being granted to applicant shall also be taken care of as per the aforesaid judgment of the Apex Court.

6.In the event of arrest, the applicant shall be released on anticipatory bail. Let the applicant-Yatendra, involved in the aforesaid complaint case be released on anticipatory bail till conclusion of trial on furnishing a personal bond of Rs.50,000/- with two sureties each in the like amount to the satisfaction of the trial court concerned with the following conditions:-

(i) 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 from disclosing such facts to the Court or to any police officer.

(ii) The applicant shall not leave the country during the currency of trial without prior permission from the concerned trial Court.

(iii) The applicant shall surrender his passport, if any, to the concerned Court forthwith. His passport will remain in custody of the concerned Court.

(iv) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence and the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law to ensure presence of the applicant.

(v) In case, the applicant misuses the liberty of bail, the Court concerned may take appropriate action in accordance with law and judgment of Apex Court in the case of ***Sushila Aggarwal vs. State (NCT of Delhi)- 2020 SCC Online SC 98***.

(vi) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If

in the opinion of the trial court default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of his bail and proceed against him in accordance with law.

7. In default or misuse of any of the conditions, the Public Prosecutor/ Investigating Officer/ first informant-complainant is at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicant.

8. With the aforesaid observations/ directions, the application is **disposed of**.

Order Date :- 13.10.2023/A.