

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11019 of 2023

Applicant :- Chote @ Rais Ahmad

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohd. Mobin Ansari

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav,J.

1. Supplementary affidavit has been filed today, is taken on record.
2. Heard Mohd. Mobin Ansari, learned counsel for the applicant and learned Additional Government Advocate for the State.
3. This anticipatory bail application (under section 438 Cr.P.C.) has been moved seeking bail in Case Crime No.18 of 2022, under Section 3/5/8 UP Prevention of Cow Slaughter Act, Police Station Khuldabad, District Allahabad.
4. In short, the prosecution story is that upon information received the police reached the spot and arrested three accused persons, namely, Saddam, Abdul Majeed @ Pappu and Taufeeq Ahmad and recovered 80 kg cow meat.
5. Learned counsel for the applicant submits that the applicant has been falsely implicated in the present case, in fact, no such incident has taken place. The applicant has never committed any offence as alleged in the impugned FIR. The applicant carrying business of buffalo supply and arrested accused persons have also involved in the same business and due to business rivalry, they have been falsely implicated the applicant. The applicant was not arrested on spot and the complicity of the applicant has been shown on the basis of confessional statement of arrested accused persons. Nothing incriminating material has been recovered from the possession or pointing out of the applicant. The recovery that has been shown is false and fabricated and there is no independent eye witness of the alleged recovery. No specific role has been assigned to the applicant. All the witnesses are police personal, whose statement is not reliable. He further submits that co-accused person, namely, Sarfaraz Ahmad has already been granted anticipatory bail by a coordinate Bench of this Court vide order

dated 09.06.2022 passed in Criminal Misc. Anticipatory Bail Application No.4076 of 2022, copy of the same has been annexed as Annexure No.3 to the affidavit. He further submits that other co-accused persons, namely, Taufiq Ahmad @ Monu and Saddam have already been granted regular bail vide orders dated 08.04.2022 and 19.04.2022 passed in Criminal Misc. Bail Application Nos.9423 and 12215 of 2022, copy of the same has been annexed as Annexure No.4 to the affidavit. He further submits that the applicant is having previous criminal history of one case which has been explained in paragraph 4 of the supplementary affidavit. He further submits that applicant has apprehension of imminent arrest and in case, applicant is released on anticipatory bail, he will not misuse the liberty and would co-operate with the trial.

6. Learned A.G.A. vehemently opposed the prayer for anticipatory bail of the applicant and has prayed for rejection by submitting that all the accused persons including the applicants were involved in slaughtering and 8 kg cow meat has been recovered from the arrested co-accused persons. Allegations are very serious and keeping in view the seriousness of the allegations made against the applicant, applicant is not entitled to grant of anticipatory bail. The apprehension of the applicant is not founded on any material on record. Only on the basis of imaginary fear, anticipatory bail cannot be granted.

7. In the light of above, looking to the facts and circumstances of this case, submissions of learned counsel for the parties as mentioned above, taking into consideration the role assigned to the applicant as per prosecution case, gravity and nature of accusation, this Court is of the view that no case for exercising its discretionary power under Section 438 Cr.P.C. is made out in favour of applicant.

8. Accordingly, this application under Section 438 Cr.P.C. is **dismissed**.

Order Date :- 6.11.2023

Ajeet