

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11211 of 2023

Applicant :- Rohtas

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Antriksh Verma

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 Mr. Antriksh Verma, 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.117 of 2021, under Sections 147, 148, 149, 307, 333, 353, 186, 504, 506, 427, 332, 128, 269, 270, 336 IPC, Police Station Jansath, District Muzaffar Nagar.
4. Learned counsel for the applicant submits that applicant has been falsely implicated in the present case just to harass the applicant in fact no such incident has taken place as alleged in the impugned FIR. The applicant has never committed any offence as alleged in the impugned FIR. Initially the impugned FIR has been lodged against applicant and 11 other co-accused persons and also 5-6 unknown persons. Only general allegations have been levelled against all the accused persons including the applicant. No specific role has been assigned to the applicant. He further submits that earlier the applicant has approached before this Court by filing Criminal Misc. Anticipatory Bail Application No.15932 of 2021 and a co-ordinate Bench of this Court granted anticipatory bail to the applicant vide order dated 23.09.2021, copy whereof has been annexed as Annexure No.1 to the affidavit filed in support of the application. Now the charge sheet has been submitted and the court below has taken cognizance and summoned the applicant to face trial. He further submits that during investigation, the applicant has fully cooperated in the investigation and has not misused the liberty of bail, therefore, there is no need of custodial interrogation of the applicant, hence, the applicant may be enlarged on anticipatory bail till conclusion of trial. He further

submits that the applicant is having previous criminal history of three cases in which he is on bail, the same has been mentioned in paragraph 4 of the supplementary affidavit.

5. Learned A.G.A. has vehemently opposed the prayer for anticipatory bail of the applicant but could not dispute the aforesaid contentions raised by learned counsel for the applicant.

6. 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.

7. In the event of arrest, the applicant shall be released on anticipatory bail. Let the applicant-**Rohtas**, involved in the aforesaid case crime 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.

8. 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.

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

Order Date :- 19.10.2023

Ajeet