

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11332 of 2023

Applicant :- Anil Kumar And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Bratendra Singh

Counsel for Opposite Party :- G.A., Ramkripal Yadav

Hon'ble Shekhar Kumar Yadav, J.

1. Heard learned counsel for the applicant and learned Additional Government Advocate for the State. Mr Ramkripal Yadav, learned counsel for the informant is also present.

2. Supplementary affidavit filed today is taken on record.

3. At the outset learned counsel for the applicant submitted that he is pressing the present anticipatory bail application in respect of applicant no. 1 only as the applicant no. 2 has now been arrested and the present anticipatory bail application in respect of applicant no. 2 has become infructuous and the same may be treated as not pressed.

4. The present anticipatory bail application is dismissed as not pressed in respect of applicant no. 2.

5. This anticipatory bail application (under section 438 Cr.P.C.) has been moved by applicant no. 1 Anil Kumar seeking bail in Case Crime No. 625 of 2023, under sections 147, 148, 149, 307, 504, 506 IPC, P.S. Kurawali, Distrit Mainpuri during the pendency of application.

6. Learned counsel for the applicant submits that applicant has been falsely implicated in the present case. Learned counsel for the applicant submits that F.I.R. has been lodged against 5 named persons and 3 unknown persons. In the FIR, false allegation has been levelled against the applicant. He further submits that allegations made against the aforesaid applicant are fake and general in nature. It is further submitted that there is no motive of the alleged incident. It is further submitted that there is no role of firing assigned to the applicant. It is further submitted that injuries are simple in nature. It is further submitted that role of firing is

assigned to co accused Rajesh and Raghvendra. There is criminal history of one case in which applicant has been granted bail. The applicant is having definite apprehension that he may be arrested by the police any time.

7. Learned AGA has opposed the prayer for bail, but could not dispute the said facts.

8. 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.

9. In the event of arrest, the applicant shall be released on anticipatory bail. Let the applicant Anil Kumar, involved in the aforesaid crime be released on anticipatory bail 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:-

(1) The applicant shall co-operate with the Investigating Officer during investigation and shall report to the Investigating Officer as and when required for the purpose of conducting investigation;

(2) 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; and

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

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

(5) 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.

(6) 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.***

(7) 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.

10. 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.

11. With the aforesaid observations/ directions, the application stands **disposed of.**

Order Date :- 1.11.2023

RavindraKSingh