

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11340 of 2023

Applicant :- Deepchand Jaiswal And 2 Others

Opposite Party :- State Of U.P. And Another

Counsel for Applicant :- K.K.Rao,Pradeep Kumar Srinette

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav,J.

1. Heard learned counsel for the applicants 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 Case Crime No. 193 of 2020, under sections 3/7 of Essential Commodities Act,1955, P.S.Paniyara, District Maharajganj, during the pendency of trial.
3. It is contended by learned counsel for the applicants that applicants were granted anticipatory bail by this court vide order dated 29.01.2021 in Criminal Misc Anticipatory Bail Application No. 1897 of 2021, till submission of charge sheet and after filing of the charge sheet, applicants approached this court by filing Application U/s 482 No. 8237 of 2023 and the same came to be disposed of vide order dated 13.03.2023 with the direction to the applicants to surrender within two weeks before the court and if their bail applications are filed, the same shall be adjudicated and decided by the courts below with a speaking and reasoned order strictly in accordance with law. It is further submitted that after the direction passed by this Court in Criminal Misc Anticipatory Bail Application No. 1897 of 2021, co accused Lalji was arrested and sent to jail in bailable offence. Thereafter he applied for regular bail before this Court and this Court has enlarged the co accused on bail vide order dated 11.04.2023 passed in Criminal Misc Bail Application No. 16081 of 2023. It is further submitted that the police is trying to arrest the applicants in the present case which is a bailable offence. There is no criminal history of the applicants. The applicants are having definite apprehension that they may be arrested by the police any time. It is further

submitted that in the present case, charge sheet has been submitted and maximum punishment for the aforesaid offences is seven years and the offence is bailable one and there is no requirement to arrest the applicants in the light of order of Apex Court in the case of **Satender Kumar Antil Vs. Central Bureau of Investigation & Another, Special Leave to Appeal (Crl.) No(s). 5191 of 2021 dated 07.10.2021.**

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

5. Hence without expressing any opinion on the merits of the case and considering the nature of accusations and antecedents of applicants, they are 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 applicants shall also be taken care of as per the aforesaid judgment of the Apex Court.

7. In the event of arrest, the applicants shall be released on anticipatory bail. Let the applicants Deepchand Jaiswal, Satish Singh and Durgesh Rai involved in the aforesaid crime be released on anticipatory bail on each of them 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 applicants 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 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 officer; and

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

(4) The applicants shall surrender their passport, if any, to the concerned Court forthwith. Their passport will remain in

custody of the concerned Court.

(5) The applicants shall file an undertaking to the effect that they 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 applicants.

(6) In case, the applicants misuse 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 applicants 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 their bail and proceed against them 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 applicants.

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

Order Date :- 26.10.2023
RavindraKSingh