

**Court No. - 71**

**Case :-** CRIMINAL MISC ANTICIPATORY BAIL  
APPLICATION U/S 438 CR.P.C. No. - 11249 of 2023

**Applicant :-** Satish Kumar

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

**Counsel for Applicant :-** Ankit Srivastava, Shamsheer  
Bahadur Maurya

**Counsel for Opposite Party :-** G.A.

**Hon'ble Shekhar Kumar Yadav, J.**

1. Heard 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 Case Crime No. 32 of 2023, under sections 419, 420, 467, 468, 471, 506 IPC, P.S. Mahewaghat, District Kaushambi during the pendency of investigation/trial.

3. Learned counsel for the applicant submits that applicant has been falsely implicated in the present case. It is contended that the property in question originally belongs to his ancestral property and after the death of the father of the applicant, name of the applicant and other legal heirs was mutated in the revenue record. It is further submitted that initially a sale deed of the property in question was executed in the year 1994 by the father of the applicant in favour of the informant and at that time applicant was minor and the name of the informant was not mutated in the revenue record. It is further submitted that after attaining the majority, applicant's name and other legal heirs were mutated in the revenue record. It is further submitted that applicant thereafter executed a sale deed on 2.09.2021 to one co accused Banwari and thereafter informant filed a proceedings under Section 38(1) of UP Land Revenue Code where-after name of the applicant and other co accused/legal heirs were strike out from the revenue record. It is further submitted that the applicant will never claim any right over the property in question. It is further submitted that informant deliberately converted the civil dispute into the criminal case. The applicant is having definite apprehension

that he may be arrested by the police any time.

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 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 Satish 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.

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 stands **disposed of.**

**Order Date :- 18.10.2023**

RavindraKSingh