Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 11289 of 2023

Applicant :- Ravendra Prasad Yadav alias Ravindra Prasad
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Ram Sakal Yadav,Ram Bachan Yadav
Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State perused the record.

2. Apprehending his arrest in Case Crime No.186 of 2023, under Sections 3/5A/8 of U.P. Prevention of Cow Slaughter Act, 1955 and Section 11 of Prevention of Cruelty to Animals Act, 1960, Police Station Gopiganj, District Bhadohi, the applicant - **Ravendra Prasad Yadav alias Ravindra Prasad** has filed this anticipatory bail application seeking anticipatory bail in the aforesaid crime number.

3. It is submitted by the learned counsel for the applicant that the applicant is innocent and he has apprehension of his arrest in the above-mentioned case, whereas there is no credible evidence against her. He has been falsely implicated into this matter. Allegations levelled against the applicant are false. Investigation is going on into the matter. Applicant is the owner of the Vehicle No. UP70-KT-9304 in which the animals were being transported. It is further submitted that no actual slaughtering has taken place in the matter. It is further submitted that a recovery of three alive cows has been shown from the vehicle in question wherein they are said to be transported. No beef or dead cow progeny has been recovered from the vehicle. It is further submitted that the applicant is ready to cooperate with the investigation. It is further submitted that no custodial interrogation is required in this matter from the applicant. He has no criminal antecedents to his credit and as such, he is entitled for anticipatory bail.

4. On the other hand, learned A.G.A. has vehemently opposed the prayer for anticipatory bail.

5. No beef has been recovered by the police at the time of arresting

of the accused person. No criminal history of the applicant has been brought to the notice of this Court.

6. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has held that while considering an application for grant of anticipatory bail, the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence including intimidating witnesses, likelihood of fleeing justice, such as leaving the country, etc. It has further been held that Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion.

7. In **Siddharth Vs. State of Uttar Pradesh & Another, (2022) 1 Supreme Court Cases 676**, the Hon'ble Apex Court has held that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it. If arrest is made routine, it can cause incalculable harm to the reputation and self-esteem of a person. If the Investigating Officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation, then there is no compulsion on the officer to arrest the accused.

8. Considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, in my view, it is a fit case for anticipatory bail to the applicant till the filing of police report under section 173 (2) Cr.P.C. before the competent Court.

9. The anticipatory bail application is **allowed**.

10. In the event of arrest of the applicant in the aforesaid case crime, he shall be released on anticipatory bail till the filing of police report under section 173 (2) Cr.P.C. before the competent Court on his furnishing a personal bond of Rs.50,000/- with two

sureties each in the like amount to the satisfaction of Station House Officer of the police station concerned with the following conditions:-

(i) The applicant shall make himself available for interrogation by a police officer as and when required.

(ii) 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/her from disclosing such facts to the Court or to any police office.

(iii) The applicant shall not leave India without the previous permission of the Court and if he has passport, the same shall be deposited by him before the S.S.P./S.P. concerned.

11. In case of default of any of the conditions, the Investigating Officer shall be at liberty to file appropriate application for cancellation of protection granted to the applicant.

Order Date :- 12.10.2023
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Digitally signed by :-
SANDEEP SHARMA
High Court of Judicature at Allahabad