

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S
438 CR.P.C. No. - 11268 of 2023

Applicant :- Rajeev Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Saqib Meezan, Salman Ahmad

Counsel for Opposite Party :- G.A., Adil Khan

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Saqib Meezan, learned counsel for the applicant, Sri Adil Khan, learned counsel for the informant and Sri V.K.S. Parmar, learned A.G.A. for the State as well as perused the record.
3. The present anticipatory bail application has been filed on behalf of the applicant in Case Crime No. 305 of 2022, registered under Sections 420, 467, 468, 471, 342, 323, 364-A, 506, 34, 120-B I.P.C. at Police Station- Rajabpur, District- Amroha with a prayer to enlarge him on anticipatory bail.
4. Learned counsel for the applicant has submitted that co-accused person, Hina Parveen has already been granted anticipatory bail by this Court vide order dated 29.8.2023 passed in Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No.9767 of 2023. Therefore, the present applicant is also entitled for anticipatory bail on the ground of parity. Learned counsel for the applicant undertakes that he will cooperate in the trial failing which the State can move appropriate application for cancellation of the anticipatory bail.
5. The prayer for anticipatory bail has been vehemently opposed by learned counsel for the informant and learned A.G.A. on the ground that already the proceedings under Section 82 and 83 Cr.P.C. have been taken against the applicant, as such, the applicant is not entitled for anticipatory bail being a proclaimed offender. Learned A.G.A. has informed that the proceedings under Section 82 Cr.P.C. were initiated against the applicant on 30.09.2023.
6. In rebuttal, learned counsel for the applicant has stated that the applicant had applied for anticipatory bail before the Sessions Judge, Amroha on 15.9.2023 which was disposed of later on, subsequent to it, the applicant has applied for anticipatory bail before this Court. Learned counsel has further

stated that the informant held went on sending the applicant somehow or other behind the bar and an another F.I.R. has been instituted against him on 12.10.2023 under Section 386 I.P.C. Except the said F.I.R. instituted against the applicant by the same informant, the applicant has no other criminal antecedents to his credit.

7. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, pending trial and in light of the judgement passed by this Court in ***Nanha S/o Nabhan Kha vs. State of U.P., 1993 Cr.L.J. 938*** and the judgement passed by the Apex Court in ***Paras Ram Vishnoi vs. The Director, Central Bureau of Investigation, MANU/SCOR/22410/2021***, without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for anticipatory bail. The anticipatory bail application is **allowed** on the ground of parity.

8. In view of the above, the anticipatory bail application of the applicant is allowed. Let the accused-applicant- **Rajeev Kumar** be released forthwith in the aforesaid case crime (supra) on anticipatory bail till the conclusion of trial on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

- (i). that the applicant shall make himself available for interrogation by a police officer as and when required;
- (ii). that 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 or tamper with the evidence;
- (iii). that the applicant shall not leave India without the previous permission of the court;
- (iv). that in case charge-sheet is submitted the applicant shall not tamper with the evidence during the trial;
- (v). that the applicant shall not pressurize/ intimidate the prosecution witness;
- (vi). that the applicant shall appear before the trial court on each date fixed unless personal presence is exempted;
- (vii). that in case of breach of any of the above conditions the court concerned shall have the liberty to cancel the bail.

9. It is made clear that observations made hereinabove are exclusively for deciding the instant anticipatory bail application and shall not affect the trial.

Order Date :- 18.10.2023/Vikas

[Krishan Pahal, J.]