

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11242 of 2023

Applicant :- Dhara Singh Patel

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashutosh Kumar Singh, Arvind Singh Patel

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav, J.

1. Heard Sri Arvind Singh Patel, learned counsel for the applicant and Sri R.K. Srivastava, learned A.G.A. for the State as well as perused the record.

2. This anticipatory bail application (under section 438 Cr.P.C.) has been moved seeking bail in Case Crime No.286 of 2023, under Sections 419, 420, 467, 468, 471 I.P.C. and Section 6/10 U.P. Public Examinations Act, 1998, P.S.- Naini, District- Prayagraj.

3. Learned counsel for the applicant submitted that the applicant has been falsely implicated in the present case due to ulterior motive. The applicant is regular practitioner of this High Court since 2021 having A.O.R. No. A/D 0682/23. He submitted that the applicant is preparing for competitive examinations and he has appeared in Main Examination of Combined Lower Subordinate Services General Recruitment Competitive Examination 2019 on 21.10.2021 and result of the said examination is still awaited, in support of his submission, he has produced Admit Card of the aforesaid examination, the same is taken on record. Learned counsel for the applicant submitted that the name of the applicant came into light during investigation in the confessional statement of the co-accused Anil Kumar Yadav who has been granted regular bail by the co-ordinate Bench of this Court vide order dated 27.7.2023 passed in Criminal Misc. Bail Application No.29450 of 2023, copy of the bail order dated 27.7.2023 produced by learned counsel for the applicant, is taken on record. He submitted that other co-accused Aashutosh Patel who has criminal history of 36 cases, have been granted interim protection by the co-

ordinate Bench of this Court vide order dated 3.10.2023 passed in Criminal Misc. Anticipatory Bail Application No.9811 of 2023 for a period of one month or till the time of surrender before the court below. He submitted that the applicant has no concern with the alleged incident. The investigation is going on and till date no charge sheet has been submitted. The applicant has no previous criminal history. Learned counsel for the applicant further submitted that applicant has apprehension of imminent arrest and in case, applicant is released on anticipatory bail, he will not misuse the liberty and would co-operate with the trial.

4. Learned A.G.A. has opposed the prayer for anticipatory bail of the applicant but could not dispute the submission advanced by learned counsel for the applicant.

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- **Dhara Singh Patel**, involved in the aforesaid case 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:-

(i) 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.

(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 from disclosing such facts to the Court or to any police officer.

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

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

Court.

(v) 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.

(vi) 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.**

(vii) 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 **allowed**.

Order Date :- 12.10.2023

Krishna*