Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 12789 of 2023

Applicant :- Mohit @ Mohit Kumar And 5 Others
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Nandini Pandey,Ved Prakash Mishra
Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised. Heard Ms. Nandini Pandey, learned counsel for the applicants as well as Sri Sunil Kumar, learned A.G.A. for the State and also perused the material available on record.

2. The present anticipatory bail application has been filed on behalf of the applicants in Criminal Case No. 2367 of 2019, arising out of Case Crime No. 149 of 2019, under Sections 147, 149, 332, 341 IPC, Police Station Dilari, District Moradabad, with a prayer to enlarge them on anticipatory bail.

3. This is the second anticipatory bail application. The first one was disposed of as not pressed on 18.8.2021, passed in Criminal Misc. Anticipatory Bail Application u/s 438 Cr.P.C. No. 12697 of 2021,as such, it was not decided on merits.

4. Learned counsel for the applicants has stated that the applicants are maliciously being prosecuted in the present case due to ulterior motive and have the apprehension of their arrest. The applicants have nothing to do with the said offence as alleged by the prosecution. Learned counsel has next stated that the present FIR was instituted regarding the blocking of the road on 8.7.2019 at about 8.30 am. It is also stated that the FIR is delayed and there is no explanation of the said delay caused. The is no injury sustained by any police official. The allegations in the FIR are vague.

5. Several other submissions have been made on behalf of the applicants to demonstrate the falsity of the allegations made against them. The circumstances which, as per counsel, led to the false implication of the applicants have also been touched upon at length. It is further submitted that the applicants have no criminal antecedents. In case, the anticipatory bail application of the applicants is allowed, they will not misuse the

liberty and shall cooperate with trial.

6. On the other hand, learned A.G.A. has vehemently opposed the prayer for grant of anticipatory bail but unable to dispute the submissions raised by the learned counsel for the applicants.

7. On due consideration to the arguments advanced by the learned counsel for the parties and in view of the law laid down by the Apex Court in the case of "Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC online SC 98", the applicants are entitled to be granted anticipatory bail in this case.

8. Without expressing any opinion upon ultimate merits of the case either ways which may adversely affect the trial of the case, the anticipatory bail application of the applicants is allowed.

9. In the event of arrest of the applicants, Mohit @ Mohit Kumar, Sonu Kumar, Babu @ Tyagi @ Babu Ram, Jaiveer Singh @ Priyanshu Chauhan, Rishipal Singh, Kapil @ Kapil Kumar, involved in the aforesaid case crime number, shall be released on anticipatory bail till the conclusion of trial on furnishing a personal bond with two sureties each in the like amount to the satisfaction of the Presiding Officer/Court Concerned, with the conditions that:-

i. that the applicants shall make themselves available for interrogation by a police officer as and when required;
ii. that 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 him from disclosing such facts to the court or to any police officer or tamper with the evidence;
iii. that the applicants shall not leave India without previous permission of the court;
iv. that the applicants shall not tamper with the evidence during the trial;
v. that the applicants shall not pressurize/ intimidate the prosecution witness;
vi. that the applicants shall appear before the trial court on each date fixed unless personal presence are exempted;

10. In case of breach of any of the above conditions, the court concerned shall have the liberty to cancel the bail granted to the applicants.

11. It is made clear that observations made in granting anticipatory bail to the applicants shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 22.11.2023
Shalini

Digitally signed by :-
SHALINI JAISWAL
High Court of Judicature at Allahabad