

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11888 of 2023

Applicant :- Dhasu @ Fareed

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

Counsel for Applicant :- Hari Nath Chaubey

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 and perused the record.

2. Apprehending his arrest in Case Crime No.0226 of 2023, under Sections 3/5/8 of U.P. Prevention of Cow Slaughter Act, 1955, Police Station Bhognipur, District Kanpur Dehat, the applicant - **Dhasu @ Fareed** 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 him. He has been falsely implicated into this matter. Allegations levelled against the applicant are false. Investigation is going on into the matter. Applicant has no concern with the present matter. It is further submitted that the applicant has no criminal history to his credit. At the time of alleged incident, he was not present on the spot. Nothing has been recovered from the possession of the applicant and the recovery shown in the matter is false and planted and there is no independent witness of the said recovery. 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 and as such, he is entitled for anticipatory bail.

4. Per contra, learned A.G.A. opposed the prayer for anticipatory bail and it has been vehemently submitted that 50 kilogram beef has been recovered in the matter. The applicant is actively involved in this matter. It is also submitted that the applicant is a proclaimed offender and a process under Section 82 CrPC has been issued against him. The offence is serious in nature, therefore a prayer for rejection of anticipatory bail application has been made.

5. I have considered the rival submissions made by the learned counsel for the parties and have gone through the entire record carefully.

6. From the perusal of the record it reflects that a huge quantity of beef has been recovered in the matter. Applicant has actively participated in commission of the crime and sufficient evidence has been collected against him so far during investigation. It also reflects that since the applicant did not cooperate with the Investigating Officer, a process under section 82 Cr.P.C. was issued against him and this fact finds support from the record.

7. The Hon'ble Apex Court in **Lavesh Vs. State (NCT of Delhi) (2012) 8 SCC 730** has held that "Normally, when the accused is "absconding" and declared as a "proclaimed offender", there is no question of granting anticipatory bail. We reiterate that when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of Section 82 of the Code he is not entitled to the relief of anticipatory bail."

8. Further, the judgment passed in **Lavesh** (supra) was referred by the Hon'ble Apex Court in **State of Madhya Pradesh vs. Pradeep Sharma, (2014) 2 Supreme Court Cases 171** and referring to paragraph 12 of the judgment of Lavesh (supra), in paragraph 16 of the said judgment, it was observed, relevant portion of which is as under :

"16.....It is clear from the above decision that if anyone is declared as an absconder / proclaimed offender in terms of Section 82 of the Code, he is not entitled to the relief of anticipatory bail."

9. Hence, from the aforesaid case laws it is evident that as per normal rule, anticipatory bail cannot be granted to an accused who is absconding or concealing himself in order to avoid execution of the process of the Court and has been declared as proclaimed offender.

10. In view of the above, I deem it not a fit case to grant anticipatory bail to the present applicant. Such a person, who does not cooperate with the investigation at all, is not entitled to get any relief from this Court by way of anticipatory bail.

11. The anticipatory bail application is, accordingly, **rejected**.

Order Date :- 20.11.2023 /safi