

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 11883 of 2023

Applicant :- Asgar Ali @ Asgar And Others

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

Counsel for Applicant :- Utsav

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. Heard Sri Utsav, learned counsel for the applicants and Sri Ashutosh Srivastava, 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 Case Crime No. 57A of 2005, under Sections 147, 148, 149, 427, 452, 504, 506 of IPC, Police Station Kokhraj, District Kaushambi, with a prayer to enlarge them on anticipatory bail.

3. At the very outset, learned counsel for the applicants has claimed parity with the co-accused Mohammad Akram @ Akram, Mohammad Aslam @ Aslam, Mohammad Umar @ Ache and Mohammad Vakeel, who have already been granted anticipatory bail by another Bench of this Court in Criminal Misc. Anticipatory Bail Application u/s 438 Cr.P.C. No.11848 of 2023 vide order dated 06.11.2023. Since the case of the applicants is at par with the co-accused persons, who have already been granted anticipatory bail, the applicants are also entitled for the same on the ground of parity. The applicants have no criminal history.

4. The prayer for anticipatory bail has been vehemently opposed by learned AGA. However, the aforesaid factual aspects of the parity to the co-accused and also of no criminal history assigned to the applicants, have not been disputed by him.

5. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the judgement passed by this Court in *Nanha S/o Nabhan Kha vs. State of U.P.*, 1993 CrI.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 applicants are entitled to be granted anticipatory bail in this case.

6. 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 is allowed on the ground of parity.

7. In the event of arrest of the applicants, Asgar Ali @ Asgar, Naggu @ Nammu @ Rafiq and Raja 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 the previous permission of the court;
- iv. that in case, the charge-sheet is submitted, 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 is exempted;

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

9. 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 :- 24.11.2023
Siddhant