

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11994 of 2023

Applicant :- Shahir Khan

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

Counsel for Applicant :- Hiralal

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.54 of 2023, under Section 3/5A/5B/8 of U.P. Prevention of Cow Slaughter Act, Section 11 Prevention of Cruelty to Animals Act and Section 429 IPC, Police Station Chandauli, District Chandauli, the applicant - **Shahir Khan** 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 no actual slaughtering has taken place in the matter. It is further submitted that a recovery of 23 cow progenies including five dead cow progenies has been shown from the Vehicle No. UP21-CT-2943 wherein they are said to be transported. No beef has been recovered from the vehicle. It is further submitted that the criminal history of one case against the applicant has been explained. He is not named in the F.I.R. During investigation, his name has been added by the police. At the time of alleged incident, he was not present at the spot. Applicant has been shown to be involved in the said alleged incident on account of the fact that he is the owner of the vehicle. 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 23 cow progenies including five dead cow progenies have been recovered from the vehicle wherein they were being transported in a cruel manner and in bad condition. The offence is serious in nature, therefore a prayer for rejection of anticipatory bail application has been made.

5. Prima facie it appears from the perusal of the record that a recovery of total 23 cow progenies including 5 dead cow progenies has been made from the vehicle in question wherein they are said to be transported in bad condition. It further appears that the applicant is said to be the owner of the aforesaid vehicle. Investigation into the matter is going on and custodial interrogation of the applicant in this matter prima facie appears to be necessary.

6. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has held that while considering an application for grant of anticipatory bail, the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence including intimidating witnesses, likelihood of fleeing justice, such as leaving the country, etc. It has further been held that Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion.

7. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, in my view, it is not a fit case for anticipatory bail to the applicant. The prayer made in the application is refused.

8. The anticipatory bail application is **rejected**.

Order Date :- 2.11.2023

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