

**Court No. - 71**

**Case :-** CRIMINAL MISC ANTICIPATORY BAIL  
APPLICATION U/S 438 CR.P.C. No. - 12081 of 2023

**Applicant :-** Abhishek Soni @ Abhishek Swarnkar

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

**Counsel for Applicant :-** Dipak Kumar Tiwari

**Counsel for Opposite Party :-** G.A.,Ashwani Kumar Mishra

**Hon'ble Shekhar Kumar Yadav,J.**

1. Heard Mr Manoj Kumar Yadav, Advocate holding brief of Mr D. K. Tiwari, learned counsel for the applicant and learned Additional Government Advocate for the State. Learned counsel for the informant is also present.

2. This anticipatory bail application (under section 438 Cr.P.C.) has been moved seeking bail in Complaint Case No. 15 of 2020, under Sections 392, 323, 504 IPC, P.S. Kotwali Jalaun, District Jalaun, during the conclusion of trial.

3. Learned counsel for the applicant submits that applicant has been falsely implicated in the present case. He next submits that present FIR has been lodged in counterblast to the FIR lodged by the applicants' side against the informant under Section 498-A IPC and other allied sections. It is further submitted that earlier applicant approached this Court challenging the summoning order in aforesaid complaint case by filing Application U/s 482 No 18952 of 2021 in which initially vide order dated 23.10.2021 protection was granted to the applicant but during the passage of time, in the light of judgement of Hon'ble Apex Court in Asian Resurfacing Case, the interim protection was vacated and thereafter applicant approached before the court below for anticipatory bail and after rejection of the same, present application has been filed before this Court. It is further submitted that the entire allegation against the applicant is false and concocted. There is no credible evidence against him. The applicant undertakes to co-operate during proceedings before the Court below and trial and he would appear as and when required by the Court. It has been stated that in case, the applicant is granted anticipatory bail, he shall not misuse the liberty of bail and will co-operate during proceedings before

the Court below and would obey all conditions of bail.

4. Learned A.G.A. as well as learned counsel for the informant have opposed the prayer for anticipatory bail of the applicant.

5. On due consideration to the arguments advanced by learned counsel for the applicant as well as learned A.G.A. and considering the nature of accusations and antecedents of the applicant, the applicant is liable to be enlarged on anticipatory bail in view of the judgment of Supreme Court in the case of **Sushila Aggarwal Vs. State (NCT of Delhi), (2020) 5 SCC 1**. The future contingencies regarding the anticipatory bail being granted to applicant shall also be taken care of as per the aforesaid judgment of the Apex Court.

6. In view of the above, the anticipatory bail application of the applicants is allowed.

7. Let the accused-applicant **Abhishek Soni @ Abhishek Swarnkar** be released forthwith in the aforesaid complaint case on anticipatory bail till the conclusion of trial on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the trial court concerned with the following conditions:-

1. The applicant shall not leave India during the currency of trial without prior permission from the concerned trial Court.

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

3. That 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 them from disclosing such facts to the Court or to any police officer;

4. 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 applicants.

5. In case, the applicant misuses the liberty of bail, the trial Court concerned may take appropriate action in accordance with law and judgment of Apex Court in the case of Sushila Aggarwal and others Vs State (NCT of Delhi) and another, (2020) 5 SCC 1.

6. 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 them in accordance with law."

8. With the aforesaid directions, this application stands disposed of finally.

**Order Date :- 23.11.2023**  
RavindraKSingh