

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12351 of 2023

Applicant :- Rajkumar

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

Counsel for Applicant :- Ratnesh Kumar Jaiswal

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Ratnesh Kumar Jaiswal, learned counsel for the applicant and Sri Anit Kumar Shukla, learned A.G.A. for the State as well as perused the record.
3. The present anticipatory bail application has been filed on behalf of the applicant in Case Crime No.341 of 2023 registered under Section 384 IPC and 67 I.T. Act at Police Station-Chunar, District Mirzapur with a prayer to enlarge him on anticipatory bail.
4. Learned counsel for the applicant has stated that the case of the applicant is at a better footing to the co-accused person Ranjan Sahni @ Anukul Sahni from whose possession the said mobile phone has been recovered and the said IDs have been retrieved, as such the applicant is entitled for anticipatory bail. The co-accused person Ranjan Sahni @ Anukul Sahni has already been granted regular bail by the Court of Additional Sessions Judge, Mirzapur vide order dated 27.09.2023. There are no criminal antecedents of the applicant. Learned counsel for the applicant undertakes that he will cooperate in the trial failing which the State can move appropriate application for cancellation of the anticipatory bail.
5. The prayer for anticipatory bail has been vehemently opposed by learned A.G.A. However, he could not dispute the fact that the case of the applicant is at a better footing to the co-accused person who has been enlarged on regular bail.
6. 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.

7. In view of the above, the anticipatory bail application of the applicant is allowed. Let the accused-applicant- **Rajkumar** be released forthwith in the aforesaid case crime (supra) on anticipatory bail till the conclusion of trial on furnishing a personal and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

- (i). that the applicant shall make himself available for interrogation by a police officer as and when required;
- (ii). 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 him from disclosing such facts to the court or to any police officer or tamper with the evidence;
- (iii). that the applicant shall not leave India without the previous permission of the court;
- (iv). that in case charge-sheet is submitted the applicant shall not tamper with the evidence during the trial;
- (v). that the applicant shall not pressurize/ intimidate the prosecution witness;
- (vi). that the applicant shall appear before the trial court on each date fixed unless personal presence is exempted;
- (vii). that in case of breach of any of the above conditions the court concerned shall have the liberty to cancel the bail.

8. It is made clear that observations made hereinabove are exclusively for deciding the instant anticipatory bail application and shall not affect the trial.

Order Date :- 23.11.2023

Ravi Kant

(Krishan Pahal, J.)