

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 12410 of 2023

Applicant :- Arvind Kumar Yadav Another

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

Counsel for Applicant :- Manoj Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav,J.

1. Heard Mr. Manoj Yadav, learned counsel for the applicants and learned Additional Government Advocate for the State.

2. This anticipatory bail application (under section 438 Cr.P.C.) has been moved seeking bail in Case Crime No.382 of 2023, under Sections 419, 420, 467, 468, 471, 506 IPC, Police Station Bairiya, District Ballia.

3. Learned counsel for the applicants submits that the applicants have been falsely implicated in the present case, in fact, no such incident has taken place. The applicants have never committed any offence as alleged in the impugned FIR. The applicants are the bonafide purchaser of the land in dispute. The impugned FIR has been lodged through an application under Section 156 (3) Cr.P.C. The dispute is purely civil in nature but has given criminal colour. He further submits that similarly placed co-accused, namely, Amlawati @ Amrawati have already been granted anticipatory by this Court vide order dated 07.11.2023 passed in Criminal Misc. Anticipatory Bail Application No.11894 of 2023, copy of the same has been placed on record. The applicants are having no previous criminal history as has been mentioned in paragraph 35 of the affidavit.

4. Learned A.G.A. has vehemently opposed the prayer for anticipatory bail of the applicants but could not dispute the aforesaid contentions raised by learned counsel for the applicants.

5. Hence without expressing any opinion on the merits of the case and considering the nature of accusations and antecedents of applicants, they are directed to be enlarged on anticipatory bail as per the Constitution Bench judgment of the Apex Court in the case of ***Sushila Aggarwal vs. State (NCT of Delhi)- 2020 SCC Online SC 98***. The future contingencies regarding anticipatory bail being granted to applicants shall also be taken care of as per the aforesaid judgment of the Apex Court.

6. In the event of arrest, the applicants shall be released on anticipatory bail. Let the applicants-**Arvind Kumar Yadav and Shidarash Yadav @ Shivdarash Yadav**, involved in the aforesaid crime be released on anticipatory bail till conclusion of trial on furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the trial court concerned with the following conditions:-

(i) The applicants shall co-operate with the Investigating Officer during investigation and shall report to the Investigating Officer as and when required for the purpose of conducting investigation;

(ii) 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 them from disclosing such facts to the Court or to any police officer;

(iii) The applicants shall not leave the country during the currency of trial without prior permission from the concerned trial Court.

(iv) The applicants shall surrender their passport, if any, to the concerned Court forthwith. Their passport will remain in custody of the concerned Court.

(v) The applicants shall file an undertaking to the effect that they 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.

(vi) In case, the applicants misuse the liberty of bail, the Court concerned may take appropriate action in accordance with law and judgment of Apex Court in the case of ***Sushila Aggarwal vs. State (NCT of Delhi) 2020 SCC Online SC 98.***

(vii) The applicants 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 their bail and proceed against them in accordance with law.

7. In default or misuse of any of the conditions, the Public Prosecutor/ Investigating Officer/ first informant-complainant is at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicants.

8. With the aforesaid observations/ directions, the application is **disposed of.**

Order Date :- 22.11.2023

Ajeet