Court No. - 72
Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 12660 of 2023
Applicant :- Mudit Saxena
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Hemendra Pratap Singh,Anshu Singh
Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.

2. Heard Sri Hemendra Pratap Singh, 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.165 of 2022, registered under Sections 376, 506 I.P.C. and 3/4 Dowry Prohibition Act, at Police Station- Sasnigate, District- Aligarh with a prayer to enlarge him on anticipatory bail.

4. Learned counsel for the applicant has stated that the applicant was granted anticipatory bail till submission of police report under Section 173(2) Cr.P.C. vide order dated 14.11.2022 passed in Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No.4883 of 2022, and subsequent to it, the final report (charge-sheet) has been submitted. The applicant has not misused the said opportunity granted to him. No circumstances have changed as such.

5. In support of his submission, learned counsel for the applicant has placed reliance upon the judgement of the Apex Court in ***Aman Preet Singh vs. C.B.I. through Director AIR 2021 SC 4154***, wherein the Court has clearly held that if a person, who is an accused in a non-bailable/cognizable offence, was not taken into custody during the period of investigation, in such a case, it is appropriate that he may be released on bail as the circumstances of his having not been arrested during investigation or not being produced in custody is itself sufficient to entitle him to be released on bail.

6. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. The applicant has apprehension of his arrest. There is no criminal antecedent of the applicant. Learned counsel has

stated that the applicant undertakes that he has co-operated in the investigation and is ready to do so in trial also failing which the State can move appropriate application for cancellation of anticipatory bail.

7. Per contra, learned A.G.A. has vehemently opposed the anticipatory bail application but unable to dispute the submissions raised by the learned counsel for the applicant.

8. 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.

9. In view of the above, the anticipatory bail application of the applicant is allowed. Let the accused-applicant- **Mudit Saxena** be released forthwith in the aforesaid case crime (supra) 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 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.

10. 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 :- 20.11.2023/ Vikas

[Krishan Pahal, J.]

Digitally signed by :-
VIKAS VERMA
High Court of Judicature at Allahabad