

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12436 of 2023

Applicant :- Akhilesh Alias David

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

Counsel for Applicant :- Ravindra Prakash Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. Heard learned counsel for the applicant as well as the learned A.G.A. for the State and perused the record.

2. The present anticipatory bail application has been filed on behalf of the applicant **Akhilesh Alias David** in Case Crime No.08 of 2023, registered under Sections 379, 419, 420, 467, 468, 471 I.P.C. at Police Station- Lalganj, District- Basti with a prayer to enlarge him on anticipatory bail.

3. Learned counsel for the applicant has stated that the applicant is not named in the FIR and his name has come up in the statement of arrested co-accused person Shivam Gaur, which is not admissible in evidence. There is no criminal antecedent of the applicant. 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. 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. It is also submitted that the stolen car of this case has been recovered from the possession of co-accused Shivam Gaur and Ankit Kumar by the police and in their confessional statements made under the police custody the name of the present applicant came into light. No incriminating article has been recovered from the possession of the applicant or from the place under his control. Co-accused Vipin Kumar @ Virat has been granted anticipatory bail by this Court on 9.11.2023 vide Criminal Misc. Anticipatory Bail Application No. 12202 of 2023.

4. 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.

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 till submission of police report under Section 173(2) CrPC 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. The anticipatory bail application of the applicant is **allowed** accordingly.

7. In the event of arrest of the applicant, he shall be released on anticipatory bail on his furnishing a personal bond of Rs.50,000/- with two sureties each in the like amount to the satisfaction of Station House Officer of the police station concerned with the following conditions:-

(i) The applicant shall make himself available for interrogation by a police officer as and when required.

(ii) 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/her from disclosing such facts to the Court or to any police office.

(iii) The applicant shall not leave India without the previous permission of the Court and if he has passport, the same shall be deposited by him before the S.S.P./S.P. Concerned.

8. In case of default of any of the conditions, the Investigating Officer shall be at liberty to file appropriate application for cancellation of protection granted to the applicant.

Order Date :- 22.11.2023

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