Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 12585 of 2023

Applicant :- Rohil
Opposite Party :- State of U.P.
Counsel for Applicant :- M J Akhtar,Sr. Advocate
Counsel for Opposite Party :- G.A.,Sanjay Kr. Srivastava

Hon'ble Shekhar Kumar Yadav,J.

1. Heard learned counsel for the applicant and learned Additional Government Advocate for the State as well as perused the material available on record.

2. This anticipatory bail application (under section 438 Cr.P.C.) has been moved seeking bail in Case Crime No. 250 of 2023, under sections 323, 307, 506 IPC, P.S. Kithor, District Meerut during the pendency of investigation.

3. Learned counsel for the applicant submitted that the applicant is innocent and he has been falsely implicated in the present case. Learned counsel for the applicant claims parity with the co-accused, namely, Suhail, Manshad and Toheed, who have has been granted anticipatory bail by this Court vide orders dated 1.11.2023 and 22.11.2023 in Criminal Misc. Anticipatory Bail Application Nos. 11926 of 2023 and 12474 of 2023. Learned counsel for the applicant further submitted that applicant has apprehension of imminent arrest, and in case, applicant is released on anticipatory bail, he will not misuse the liberty and would co-operate with the trial.

4. Learned A.G.A. has opposed the prayer for anticipatory bail of the applicant but could not dispute the aforesaid fact.

5. Hence without expressing any opinion on the merits of the case and considering the nature of accusations and antecedents of applicant, he is 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

applicant shall also be taken care of as per the aforesaid judgment of the Apex Court.

6. In the event of arrest, the applicant shall be released on anticipatory bail. Let the applicant- **Rohil,** 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 applicant 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 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.

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

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

(v) 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 applicant.

(vi) In case, the applicant misuses 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 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 his 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 applicant.

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

Order Date :- 1.12.2023
Krishna*

Digitally signed by :-
KRISHNA KUMAR
High Court of Judicature at Allahabad