

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12728 of 2023

Applicant :- Vijay Anand

Opposite Party :- State of U.P.

Counsel for Applicant :- Basharat Ali Khan, Salman Ahmad

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. Heard learned counsel for the applicant 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. 168 of 2014, under sections 147, 148, 149, 307, 506 IPC read with Section 7 of Criminal Law (Amendment) Act, P.S. Kotwali, District Meerut during the pendency of trial.

3. As per contents of the FIR lodged by the informant, on 10.5.2014, while his brother and uncle were returning home from Ghantaghar after selling cardboards, in the market, in the way, when they reached near Masjid Rangarja Tirkhan, Meerut at around 02.30 pm, the named accused persons including applicants standing with weapons and raising communal slogans, exhorted others to kill them upon which all the accused persons are said to have opened fire on them with an intention to kill as a result of which both of them sustained serious injuries.

4. Learned counsel for the applicant submits that applicant has been falsely implicated in the present case. Learned counsel for the applicant submits that F.I.R. has been lodged against 15 named persons including the applicant. In the FIR, false allegation has been levelled against the applicant. He further submits that allegations made against the aforesaid applicant are fake and general in nature. No specific role is assigned to the present applicant. The applicant is a business man and has no previous criminal history. It is further submitted that both the injured have not named the applicant in their statement under Section 161 Cr.P.C as an assailant. It is further submitted that the injuries sustained by the injured are not grievous to life. It is further submitted that in respect of the same incident three different FIRs

have been lodged out of which one case has been withdrawn and in second one present applicant has already been granted anticipatory bail *vide* order dated 09.11.2023 passed in Criminal Misc Anticipatory Bail Application No. 12414 of 2023 and the present one is the third one, in which applicant is seeking anticipatory bail. Co-accused of this case Rajkishore, having similar role, has already been granted anticipatory bail in Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No. 9968 of 2023 by the Co-ordinate Bench of this Court *vide* order dated 05.10.2023. The applicant is having definite apprehension that he may be arrested by the police any time.

5. Learned AGA has opposed the prayer for bail.

6. 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.

7. In the event of arrest, the applicant shall be released on anticipatory bail. Let the applicant Vijay Anand involved in the aforesaid crime be released on anticipatory bail 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:-

(1) 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;

(2) 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; and

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

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

(5) 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.

(6) 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.***

(7) 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 him in accordance with law.

8. 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.

9. With the aforesaid observations/ directions, the application stands **disposed of.**

Order Date :- 30.11.2023

Vijay