Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 12764 of 2023

Applicant :- Om Prakash Sharma
Opposite Party :- State Of U.P. And 2 Others
Counsel for Applicant :- Ashwini Kumar Ojha
Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.

2. Heard learned counsel for the applicant and Sri Sunil Kumar, 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. 1053 of 2007, under Sections 498A, 304B IPC and 3/4 Dowry Prohibition Act, Police Station Prem Nagar, District Jhansi, with a prayer to enlarge him on anticipatory bail.

4. At the very outset, learned counsel for the applicant has stated that the applicant has the apprehension of his arrest and has claimed parity with the co-accused Ashish Kumar @ Rinku, who has already been granted anticipatory bail by another Bench of this Court in Criminal Misc. Anticipatory Bail Application u/s 438 Cr.P.C. No. 12759 of 2023 vide order dated 22.11.2023. The applicant has no criminal history. Since the case of the applicant is at par with the co-accused who has already been granted anticipatory bail, the applicant is also entitled for the same on the ground of parity.

5. The prayer for anticipatory bail has been vehemently opposed by learned AGA. However, the aforesaid factual aspect of the parity to the co-accused has not been disputed by him.

6. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, pending trial and in light of the judgement passed by this Court in ***Nanha S/o Nabhan Kha vs. State of U.P., 1993 Crl.L.J. 938*** and the judgement passed by the Apex Court in ***Paras Ram Vishnoi vs. The Director, Central Bureau of Investigation,***

MANU/SCOR/22410/2021, without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for anticipatory bail. The anticipatory bail application is **allowed** on the ground of parity.

7. In the event of arrest of the applicant, Om Prakash Sharma involved in the aforesaid case crime number, shall be released on anticipatory bail till the conclusion of trial on furnishing a personal bond with two sureties each in the like amount to the satisfaction of the Presiding Officer/Court Concerned, with the conditions that:-

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, the 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;

8. In case of breach of any of the above conditions, the court concerned shall have the liberty to cancel the anticipatory bail of the applicant.

9. It is made clear that observations made in granting anticipatory bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 14.12.2023
Shalini

Digitally signed by :-
SHALINI JAISWAL
High Court of Judicature at Allahabad