

**Court No. - 72**

**Case :-** CRIMINAL MISC ANTICIPATORY BAIL  
APPLICATION U/S 438 CR.P.C. No. - 13000 of 2023

**Applicant :-** Munne

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

**Counsel for Applicant :-** Zafeer Ahmad

**Counsel for Opposite Party :-** G.A.

**Hon'ble Krishan Pahal,J.**

1. List has been revised. Heard learned counsel for the applicant as well as Sri R.P. Patel, learned A.G.A. for the State and also perused the record.
2. The present anticipatory bail application has been filed on behalf of the applicant in F.I.R./Case Crime No. 198 of 2023, under Sections 406, 420, 467, 468, 471 IPC, Police Station Hazrat Nagar Garhi, District Sambhal, with a prayer to enlarge him on anticipatory bail.
3. As per prosecution story, the named co-accused persons, Ashageer, Ataurrehman, Razabul and Kallu are stated to have taken the truck no. UP 38 T 6504 of the informant on 22.11.2022 on rent and is stated to have disposed it off without knowledge of the informant.
4. Learned counsel for the applicant has stated that the applicant is maliciously being prosecuted in the present case due to ulterior motive and has the apprehension of his arrest. The applicant has nothing to do with the said offence as alleged by the prosecution. Learned counsel has next stated that the applicant is not named in the FIR. His name has come up later on in the statement of the arrested co-accused persons. The said statement is not admissible in the Indian Evidence Act.
5. 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. It is further submitted that the applicant has no criminal antecedents. In case, the anticipatory bail application of the applicant is allowed, he will not misuse the liberty and shall

cooperate with trial.

6. On the other hand, learned A.G.A. has vehemently opposed the prayer for grant of anticipatory bail on the ground that the proceedings u/s 83 Cr.P.C. has been taken up on 23.11.2023 as per his instructions.

7. In rebuttal, learned counsel for the applicant has stated that he had filed the instant anticipatory bail application on 4.11.2023, well before the issuance of the proceedings u/s 83 Cr.P.C., as such, the applicant is entitled for anticipatory bail.

8. On due consideration to the arguments advanced by the learned counsel for the parties, and the fact that the proceedings u/s 83 Cr.P.C. have been taken up subsequent to the filing of the anticipatory bail application, coupled with the fact that the applicant has no criminal history and his name has come up in the statement of the arrested co-accused persons, and in view of the law laid down by the Apex Court in the case of "**Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC online SC 98**", the applicant is entitled to be granted anticipatory bail in this case.

9. Without expressing any opinion upon ultimate merits of the case either ways which may adversely affect the trial of the case, the anticipatory bail application of the applicant is **allowed**.

10. In the event of arrest of the applicant, **Munne** 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 previous permission of the court;
- iv. that 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;

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

12. 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 :- 28.11.2023**  
Shalini