

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 13058 of 2023

Applicant :- Ashok Kumar Yadav

Opposite Party :- State Of U.P. Through Secretary Home And Another

Counsel for Applicant :- Laloo Yadav, Kiran Rani

Counsel for Opposite Party :- G.A., Abhishek Kumar Yadav, Ravindra Nath Yadav

Hon'ble Shekhar Kumar Yadav, J.

1. Heard Mr. Laloo Yadav, 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 Complaint Case No18 of 2014 arising out of Case Crime No.205A of 2012, under Sections 147, 148, 149, 304, 323, 504, 506 IPC, Police Station Jhangha, District Gorakhpur.

3. Learned counsel for the applicant submits that applicant has been falsely implicated in the present case just to harass the applicant. The applicant has never committed any offence as alleged in the impugned complaint case. The applicant is aged about 58 years and is suffering from several old disease. He further submits that similarly placed co-accused person, namely, Raj Kewal has already been granted anticipatory by this Court vide order dated 12.12.2023 passed in Criminal Misc. Anticipatory Bail Application No.12360 of 2023, copy of the same has been placed on record. The applicant is having no previous criminal history.

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-**Ashok Kumar Yadav**, involved in the aforesaid complaint case 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 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.

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

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

(iv) 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.

(v) 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.***

(vi) 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.

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 **disposed of.**

Order Date :- 15.12.2023/Ajeet