

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 13288 of 2023

Applicant :- Akhilesh @ Akhileshwar Dubey

Opposite Party :- State of U.P.

Counsel for Applicant :- Sweksha Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav, J.

1. Heard Ms. Sweksha Dubey, 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.282 of 2022, under Sections 147, 149, 323, 504, 452, 506, 308 IPC, Police Station Manda, District Prayagraj.

3. Learned counsel for the applicant submits that applicant has been falsely implicated in the present case just to harass the applicant in fact no such incident has taken place as alleged in the impugned FIR. The applicant has never committed any offence as alleged in the impugned FIR. The applicant and the informant are neighbours and there was dispute of ownership of abadi land. As per allegation made in the impugned FIR, the applicant's family members trespassed into the house of the informant and beaten the informant and his son whereas as per injury report, two injuries were found on the body of the injured. She further submits that injuries described in the injury report are not consistent with the allegation of physical assault. As per injury report, all injuries were found to be simple and caused by hard and blunt object. She further submits that only general role assigned to the applicant and no specific role assigned to the applicant. She further submits that the Apex Court while issuing notice has granted interim protection to the o-accused Suman Devi vide order dated 28.07.2023d passed in Petition (s) for Special Leave to Appeal (Crl.) No.8662 of 2023, copy of the same has bee annexed as Annexure No.15 to the affidavit. She further submits that charge sheet has already been submitted and only summons has been issued but no proceeding under Sections 82 and 83 Cr.P.C. has been initiated against the applicant. The applicant is having no previous criminal history as has been mentioned in paragraph 70 of the affidavit. Applicant has

apprehension of imminent arrest and in case, the 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 vehemently opposed the prayer for anticipatory bail of the applicant but could not dispute the aforesaid contentions raised by learned counsel for the applicant.

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-**Akhilesh @ Akhileshwar Dubey**, involved in the aforesaid case 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 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 :- 8.12.2023

Ajeet