

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 14584 of 2021

Applicant :- Sanjeev Kumar Singh

Opposite Party :- State Of U.P. Thru Prin.Secy. Home And Anr.

Counsel for Applicant :- Nitin Kumar Mishra,Kamlesh Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. On 14.12.2021, after hearing the learned counsel for the applicant and the learned A.G.A. this Court had passed the following interim order:-

"Heard learned counsel for the applicant and learned A.G.A. for the State as well as perused the record.

The present anticipatory bail application has been filed on behalf of the applicant in F.I.R. No. 1019/2018, under Sections 419/420 Indian Penal Code and Section 9 of U.P. Examination Act, 1998, Police Station Madiyaon, District Lucknow, with a prayer to enlarge him on anticipatory bail.

In the prosecution case it is alleged that one Govind Mishra was trying to give the RRB Railway Group-D online examination impersonating himself in place of the present applicant.

Learned counsel for the applicant submits that the co-accused Govind Mishra who was caught on the spot has been enlarged on bail by the trial court vide order dated 04.10.2018. The order of Govind Mishra is on record as Annexure No. 4 to the bail application.

Learned counsel for the applicant further submits that his identity card was misplaced and somebody was trying to get benefit of it.

Learned counsel for the applicant undertakes that he will cooperate in the investigation failing which the State can move appropriate application for vacation of the interim protection.

Learned A.G.A. has opposed the prayer for grant of anticipatory bail but unable to dispute the submissions raised by the learned counsel for the applicant.

On due consideration to the arguments advance by learned counsel for the applicant as well as learned A.G.A., so also considering the fact that the offences are punishable up to seven years and the co-accused who was caught on the spot has been enlarged on regular bail and considering the nature of accusations and antecedents of the applicant, the applicant, as an interim measure, may be enlarged on anticipatory bail in view of the Constitution Bench judgment of Supreme Court in the case of "Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC online SC 98". The future contingencies regarding the anticipatory bail being granted to applicant shall also be taken care of as per the aforesaid judgment of the Apex Court.

In the event of arrest, the accused-applicant Sanjeev Kumar Singh, shall be released forthwith in the aforesaid case crime (supra) on interim anticipatory bail on furnishing a personal bond of Rs. 25000/- each and two sureties each in the like amount to the satisfaction of the arresting officer/investigating officer/S.H.O. concerned on the following conditions:-

(i) the applicant shall make himself available for interrogation as and when required;

(ii) 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

(iii) the applicant shall not leave India without the previous permission of the Court.

Learned counsel for the applicant prays for and is granted two weeks time to file rejoinder affidavit."

2. Although a counter affidavit has been filed, nothing has come to light which may persuade this Court to take a view, different from the view taken while passing the aforesaid order, nor the learned A.G.A. has pointed out violation of any of the conditions of interim anticipatory bail committed by the applicant.

3. Application is pending since 07.12.2021.

4. Sub-Section 5 of Section 438 of the Cr.P.C. mandates that the anticipatory bail application has to be decided by this Court within a period of 30 days from the date of filing of such an application.

5. In view of above, the interim order dated 14.12.2021 is made absolute and the anticipatory bail application stands **allowed**.

6. In case the applicant has not furnished bail bonds, he may do so within a period of two weeks from today.

Order Date :- 24.11.2023

Pradeep/-