

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION
U/S 438 CR.P.C. No. - 242 of 2022

Applicant :- Deepu Singh @ Pankaj Das @ Pankaj Singh

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

Counsel for Applicant :- O.P. Tiwari

Counsel for Opposite Party :- G.A.,Devendra Pratap,Kaushal
Kishore Tewari

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri O.P. Tiwari, the learned counsel for the applicant as well as Ms. Parul Kant, the learned Additional Government Advocate appearing on behalf of the State and perused the records.

2. The applicant was granted anticipatory bail by means of order dated 03.03.2022. For the sake of convenience, the order dated 03.03.2022 is reproduced below:

"Heard Sri O.P. Tiwari, learned counsel for the applicant, learned A.G.A. for the State and Sri Shashank Shekhar Singh holding brief of Sri D.P. Singh, learned counsel for the opposite party no. 2.

The present anticipatory bail application has been filed on behalf of the applicant in F.I.R. No. 596 of 2019 u/s 366A IPC, P.S. Bangermau, District Unnao, with a prayer to enlarge him on anticipatory bail. He has further submitted that the present applicant has been falsely implicated in this case as he has not committed any offence as alleged by the prosecution. On account of the prosecution story, so narrated in the F.I.R. dated 25.11.2019 the driver of the present applicant has kidnapped the daughter of the complainant with collusion of the present applicant and the girl had taken Rs. 50,000/- cash and jewelry from the house.

The learned counsel for the applicant has submitted that if the prosecution story, so narrated in the F.I.R. is taken on its face value, in that case this may not be a case of kidnapping but prima facie it is a case of love affair wherein the daughter of the applicant had gone with her lover by her own sweet will.

At this stage learned counsel for the applicant had drawn attention of this Court towards Annexure no. 5 which is an order dated 17.1.2020 passed by the Division Bench of this Court in Misc. Bench No. 1113 of 2020 (Smt. Maya Devi & another vs. State of U.P. & others) whereby the Division Bench after noticing the appearance of the daughter of

the complainant i.e. Ms. Maya Devi and the driver of the present applicant namely, Avinash @ Baliram recorded their statement and on the basis of statement both Ms. Maya Devi and Avinash have stated that they have got married on 10.1.2020 as per Hindu rights and were living happily. In her statement the girl has stated that the aforesaid marriage was solemnized with her free will.

Further, attention has been drawn towards Annexure no. 11 which is a certificate being issued by the competent authority of the hospital in the name of 'Janni Suraksha Yojna Patra' which shows that out of aforesaid wedlock one baby girl born and in such certificate the name of father of the baby girl is indicated as Avinash, the driver of the applicant.

Therefore, the learned counsel for the applicant has submitted that if the daughter of complainant is living with her husband as a wife and is having a baby daughter then entire allegation of F.I.R. against the present applicant is having no force.

Sri Tiwari has further drawn attention of this Court towards the order dated 30.7.2020 passed by this Court in Case :- U/S 482/378/407 No. 1958 of 2020 (Bablu @ Mohd. Aslam @ Aslam vs. State of U.P. & another) co-accused of this case against whom the allegation was leveled that he was the witness of the marriage of the daughter of the complainant and Avinash. The aforesaid case is still pending consideration before this court wherein Bablu @ Mohd. Aslam @ Aslam has been granted interim protection from arrest.

The learned counsel for the applicant has further drawn attention of this Court towards Annexure no. 4 which is an interim protection from arrest being granted by the Division Bench of this Court in re: Misc. Bench No. 35750 of 2019 (Deepu Singh @ Pankaj Singh @ Pankaj Das vs. State of U.P. & Ors.) in favour of present applicant, therefore, the present applicant has not been arrested till date. However, he cooperated with the investigation and charge-sheet has already been filed.

In view of the above, learned counsel for the applicant has submitted that he may be granted anticipatory bail.

Per contra, learned AGA as well as learned counsel for the opposite party no. 2 has opposed the prayer for anticipatory bail by submitting that since the charge-sheet has been filed, therefore, in stead of filing anticipatory bail application the applicant should approach the competent court by filing regular bail.

Having heard learned counsel for the parties and having perused the material available on record, considering the facts and circumstances of the issue in question in the entirety, I hereby grant four weeks time to learned AGA as well as learned counsel for the complainant to file

counter affidavit, rejoinder affidavit, if any may be filed within a period of two weeks.

On due consideration to the arguments advance by learned counsel for the applicant as well as learned A.G.A., so also considering the nature of accusations and antecedents of the applicant, the applicant, as an interim measure, is liable to 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 Deepu Singh @ Pankaj Das @ Pankaj 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 court concerned on 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; and

(ii) the applicant shall not leave India without the prior permission of the Court.

List on 9.5.2022. When the case is next listed name of Sri D.P. Singh be printed as counsel for the opposite party no. 2."

3. Counter affidavit has been filed by the State, which is taken on record, annexing therewith material collected during the investigation which was already annexed with the affidavit filed in support of the applicant. The applicant's involvement in five other cases have been disclosed in counter affidavit, that also had been disclosed in the affidavit filed in support of the application in Para 28 of the application in two of which the applicant has been granted bail and in one case, the Investigating Officer has submitted final report and in one case, the prosecution has withdrawn the case and in one case, the applicant has no involvement.

4. Rejoinder affidavit filed in Court today in response to the counter affidavit is also taken on record.

5. No new fact has come to light since anticipatory bail was granted to the applicant.

6. Another accused namely Babu Alias Aslam has been granted anticipatory bail in the present case by means of order dated **21.09.2023** passed by this Court in **ABAIL No. 2055 of 2023**.

7. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the applicant has produced bonds in compliance of order dated 03.03.2022, without making any observations which may affect the outcome of the case, I am of the view that the order dated 03.03.2022 deserves to be made absolute.

8. In view of the above, the anticipatory bail application of the applicant is **allowed** in terms of order dated 03.03.2022.

Order Date :- 11.12.2023

Mohit Singh/-