

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 513 of 2022

Applicant :- Rohit Yadav

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

Counsel for Applicant :- Rahul Tripathi,Amit Srivastava,Ram Sajjan Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Case called out.
2. Nobody is present for the applicant. Heard Ms. Parul Kant, learned A.G.A.
3. The applicant was granted interim order on 05.04.2022 by following order:-

"Heard Sri Amit Srivastava, learned counsel for the applicant, learned AGA for the State and perused the material available on record.

The present anticipatory bail application has been filed on behalf of the applicant in Case Crime No.09 of 2022, under Sections 489-B and 489-C IPC, Police Station Godamba, District Lucknow, with a prayer to enlarge him on anticipatory bail.

As per prosecution story, two co-accused persons, namely, Mangesh @ Mangeshwar Giri and Vishal Yadav, are said to have been apprehended by the police on 03.01.2022 and the applicant is said to have ran away from the scene of occurrence in the police party firing. From the possession of the two arrested co-accused persons, 416 currency notes of denomination of 100 are said to have been recovered.

Learned counsel for the applicant has stated that one another case under Section 307 IPC at Case Crime No.7 of 2022, P.S. Godamba, District Lucknow was also lodged against the applicant and the applicant has been enlarged on bail by the Sessions Judge, Lucknow vide order dated 03.03.2022. Learned counsel for the applicant has further stated that the arrested co-accused persons have also been enlarged on regular bail in the said case crime number. 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.

Matter requires consideration.

Learned AGA is granted three weeks' time to file counter affidavit. Rejoinder affidavit, if any, may be filed within a week thereafter.

List this case on 11.07.2022 in the additional cause list.

On due consideration to the arguments advance by learned counsel for the applicant as well as learned A.G.A. and 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- Rohit Yadav shall be released forthwith in the aforesaid case crime (supra) on interim anticipatory bail on furnishing a personal bond of Rs.50,000/- 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.

It is made clear that observations made hereinabove are exclusively for deciding the instant anticipatory bail application and shall not affect the trial or deciding the regular bail application. "

4. Although learned A.G.A. was granted three weeks' time to file counter affidavit, no counter affidavit has been filed till date.

5. Since no new fact has come warranting variance of the earlier order granting interim anticipatory bail, the order dated 05.04.2022 is made absolute.

6. In view of above, the anticipatory bail application is **allowed**.

7. In case the applicant has not furnished bail bond in compliance of the order dated 05.04.2022, he may do so, within a period of four weeks from today.

(Subhash Vidyarthi, J.)

Order Date :- 30.11.2023
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