

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 575 of 2022

Applicant :- Mohammad Arif Anwar

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

Counsel for Applicant :- Vijay Prakash Tiwari, Gauri Suwan Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Sandeep Kumar Srivastava, holding brief of Sri Gauri Suwan Pandey, learned counsel for the applicant as well as Smt Parul Kant, learned A.G.A. for the State and perused the record.

2. On 21.04.2022, after hearing learned counsel for the applicant and learned A.G.A. for the State this court had passed the following order:

"Heard Sri G.S. Pandey, learned counsel for the applicant and Sri Vinay Kumar Shahi, 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 Case Crime No. 522 of 2019, under Sections 406, 419, 420, 467, 468, 471 Indian Penal Code, Police Station Madaon, District Lucknow, with a prayer to enlarge him on anticipatory bail.

As per prosecution story, a plot no. 3/212-E, Sector-B, Priyadarshini Colony, Lucknow, was allotted to the complainant by LDA and after depositing instalments, he contacted LDA for execution of sale deed. One Mukteshwar Nath Ojha drafted sale deed and obtained signature of the complainant. He was told by Mukteshwar Nath Ojha that the sale deed will be executed later on. Later on the complainant came to know through a news item published in a daily newspaper that Mukteshwar Nath Ojha had embezzled the amount of many allottees. When he further enquired, he came to know that photo of another person was pasted on his signed sale deed in which the present applicant and one Shahwaaz Anwar are witnesses.

Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case with a view to cause unnecessary harassment and to victimize him. Learned counsel has stated that he is only a marginal witnesses to the said sale deed and he was an employee of the Lucknow Development Authority and he has acted bonafidely. He has nothing to do with the preparation of any document whatsoever. Learned counsel undertakes that applicant 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.

Three weeks' time is granted to learned A.G.A. and learned counsel for the

first informant to file counter affidavit.

One week's time, thereafter, is granted to learned counsel for the applicant for filing rejoinder affidavit.

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 Mohammad Arif Anwar, shall be released forthwith in the aforesaid case crime (supra) on interim anticipatory bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the arresting officer/investigating officer/S.H.O./court 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.

List on 1st September, 2022, in the additional cause list. "

3. The learned counsel for the applicant has submitted that the bail bonds have already been furnished in compliance of the order dated 21.04.2022.

4. Learned A.G.A. did not point out any violation of the conditions of interim anticipatory bail committed by the applicant. Nothing has come to light which may persuade this court to take a view, other than the view taken at the time of granting interim anticipatory bail to the applicant.

5. In view of above, the interim order dated 21.04.2022 is made absolute and the anticipatory bail application is **allowed**.

Order Date :- 30.11.2023
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