

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 780 of 2023

Applicant :- Jamuna Prasad Verma

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

Counsel for Applicant :- Syed Ahmad Mehdi

Counsel for Opposite Party :- G.A., Lal Bahadur Khan

Hon'ble Subhash Vidyarthi, J.

1. On 05.04.2023 this Court had passed the following interim order -

"Shri Lal Bahadur Khan, Advocate has filed his 'vakalatnama' on behalf of the complainant/opposite party no.2, the same is taken on record. He further submits that few days time be granted to him for the purpose of bringing on record the objections vis-a-vis the anticipatory bail of the applicant.

Heard Shri Syed Ahmad Mehdi, learned counsel for the applicant as well as learned A.G.A. for the State and perused the record.

The instant application has been moved by the accused-applicant- Jamuna Prasad Verma, in Case Crime/F.I.R. No. 143 of 2018, under Section 120-B I.P.C., Police Station Ahirauli, District Ambedkar Nagar, with the prayer to enlarge him on anticipatory bail, as he is apprehending arrest in the above-mentioned case.

Learned counsel for the applicant on the other hand submits that it is a false case which has been lodged by the informant against the applicant and other co-accused persons only on the basis of political enmity by moving an application under Section 156 (3) Cr.P.C. and even if the case of the informant, as is evident from the first information report is taken on its face, no culpability could be attached to the applicant, who was the 'Pradhan' of the concerned village panchayat, at relevant point of time and the responsibility for allotment of the houses was entrusted to the Village Development Officer.

It is also submitted that after lodging of the first information report the applicant had approached this Court by filing a Writ Petition (M/B) No. 26056 of 2018 and vide order dated 12.09.2018 passed therein, the applicant was granted protection from arrest till any credible evidence is collected and the applicant has cooperated in the investigation and the charge sheet has been filed without arresting the applicant and since the charge sheet has been filed, there would not be any occasion for the investigating agency to require the custodial interrogation of the applicant and now only the attendance/presence of the applicant would be required for expeditious disposal of the case.

Having regard to the fact that during the course of investigation the applicant was granted protection from arrest and the charge sheet has been filed without arresting him and the charge sheet significantly has been filed only under Section 120-B I.P.C. without mentioning any substantive offence which only prima facie opinion of this Court could not be filed, the interim protection from arrest till counter affidavit/objections are brought on record by the State or learned counsel appearing for the complainant, may be granted to the applicant.

List this case on 20th April, 2023, on which date this anticipatory bail application shall be finally disposed of.

In the meantime, the State as well as learned counsel for the complainant/informant may also file counter affidavit/objections with regard to the prayer of anticipatory bail of the applicant.

It is provided that till the next date of listing, in the event of arrest of the accused-applicant, namely, Jamuna Prasad Verma, under any process of trial Court or his presence/appearance before the trial Court on or before the next date of listing i.e. 20.04.2023, he shall be released forthwith on anticipatory bail on his furnishing a personal bond of Rs. 50,000/- and two sureties each in the like amount to the satisfaction of the Station House Officer of the Police Station concerned/ Investigating Officer/Trial Court subject to the following conditions:-

- 1. The applicant if not arrested earlier, shall surrender before the trial court on or before 20.04.2023 and will cooperate in the trial.*
- 2. The applicant shall Cooperate in the investigation and will make himself available as and when required by the Investigating officer of the case, even for the recovery of any fact.*
- 3. The applicant shall not make any attempt to influence the prosecution witnesses and will also not commit any crime during her release on anticipatory bail.*
- 4. The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence and specially when the prosecution witnesses are present in court.*
- 5. 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 any of the condition placed above 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 shall proceed against him in accordance with law.

The office is directed to publish the name of Shri Lal Bahadur Khan in the cause list as learned counsel for the complainant/informant, when the case is next listed."

- 2. The aforesaid order was passed after hearing the learned counsel for the opposite party no. 2. The State as well as the learned counsel for the informant were granted time till*

20.04.2023 to file counter affidavit but no counter affidavit has been filed till date.

3. 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.

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 05.04.2023 is made absolute and the anticipatory bail application is ***allowed***.

5. The learned counsel for the applicant informs that the applicant has already furnished bail bonds in compliance of the interim order dated 05.04.2023.

Order Date :- 2.11.2023

Pradeep/-