

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 662 of 2022

Applicant :- Rishabh Singh And Another

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

Counsel for Applicant :- Durgesh Mishra, Dr. Virendra Singh
Yadav

Counsel for Opposite Party :- G.A., Dinesh Kumar Ojha

Hon'ble Subhash Vidyarthi, J.

Case called out.

Nobody is present on behalf of the applicant to press the application.

Sri Rakesh Kumar Singh, the learned A.G.A. is present on behalf of the State.

On 06.05.2022, after hearing learned counsel for the applicant and learned A.G.A. for the State this court had passed the following order:

"Heard Dr. Virendra Singh Yadav, learned counsel for the applicants and Sri Dinesh Kumar Ojha, learned counsel for the first Informant as well as learned A.G.A. for the State and also perused the material available on record.

The present anticipatory bail application has been filed on behalf of the applicants in F.I.R./Case Crime No. 280 of 2020, under Sections 304 & 504 of IPC, Police Station- Aaspur Deosara, District- Pratapgarh, with a prayer to enlarge them on anticipatory bail.

At the very outset, learned counsel for the applicant has claimed parity with the co-accused Kishan Singh, who has already been granted interim protection by this Court in Criminal Misc. Anticipatory Bail Application u/s 438 Cr.P.C. No. 569 of 2022 vide order dated 19.4.2022. Since the case of the applicants is identical to that of co-accused person who has already been granted interim protection, the applicants are also entitled for interim protection. Learned counsel for the applicant undertakes that the applicant shall cooperate in the

investigation failing which the State can move appropriate application for vacation of the interim protection.

The prayer for anticipatory bail has been vehemently opposed by learned AGA. However, the aforesaid factual aspect of the parity to the co-accused has not been disputed by him.

Considering the arguments advance by the learned counsel for the applicants as well as the learned A.G.A. and also considering the nature of accusations and antecedents of the applicants, the applicants, as an interim measure, are 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 applicants shall also be taken care of as per the aforesaid judgment of the Apex Court.

In the event of arrest, the accused-applicants- Rishabh Singh and Saurabh Singh, shall be released forthwith in the aforesaid case crime (supra) on interim anticipatory bail on furnishing a personal bond of Rs.50,000/- with two sureties each in the like amount to the satisfaction of the S.H.O./court concerned on the following conditions:-

- (i) The applicants shall make themselves available for interrogation as and when required;*
- (ii) The applicants 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 them from disclosing such facts to the Court or to any police officer; and*
- (iii) the applicants shall not leave India without the previous permission of the Court.*

Learned counsel for the first Informant as well as learned A.G.A. pray for and are granted three weeks' time to file their counter affidavits. Rejoinder affidavit, if any, may be filed thereafter by the learned counsel for the applicant.

List this application on 6.9.2022 in the additional cause list. "

The State has filed a counter affidavit but no new fact has come to light warranting variance of the aforesaid interim order. The opposite party no.2 has not filed any counter affidavit.

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.

In view of above, the interim order dated 06.05.2022 is made absolute and the anticipatory bail application is **allowed**.

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(Subhash Vidyarthi, J.)

Order Date :- 21.12.2023

Ram.