

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 1049 of 2022

Applicant :- Mukesh Kumar

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

Counsel for Applicant :- Amit Kumar Singh, Ajai Kumar
Gupta

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Amit Kumar Singh, the learned counsel for the applicant as well as Sri Rakesh Kumar Singh, the learned A.G.A. for the State and perused the record.

2. The applicant was granted interim anticipatory bail by means of a following order passed by this court on 06.07.2022.

"Heard Sri Amit Kumar Singh, learned counsel for the applicant, Sri Vinay Kumar Shahi, 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. 0482 of 2019, under Sections 419, 420, 467, 468, 471 IPC, Police Station Gauriganj, District Amethi, with a prayer to enlarge him on anticipatory bail.

Learned counsel for the applicant has further submitted that co-accused person, Shailendra Kumar Singh, has already been granted anticipatory bail by Co-ordinate Bench of this Court vide order dated 5.7.2022, passed in Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No. 1037 of 2022. Therefore, the present applicant is also entitled for anticipatory bail. 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.

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

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 advanced 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 on the ground of parity and 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- Mukesh Kumar, 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./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 this case on 5th September, 2022, in the additional cause list."

3. Although counter and rejoinder affidavits have been filed in this case, but 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.

4. The learned counsel for the applicant has submitted that the bail bonds have already been furnished in compliance of the aforesaid order dated 06.07.2022. He further submitted that the anticipatory bail of co-accused persons, namely, Shailendra Kumar Singh and Dharmendra Singh, have already been allowed by this court.

5. The learned A.G.A. could not point out any violation of the conditions of interim anticipatory bail committed by the applicant

6. In view of above, the interim order dated 06.07.2022 is made absolute and the anticipatory bail application is allowed.

(Subhash Vidyarthi,J.)

Order Date :- 18.12.2023
Preeti.