

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 1037 of 2022

Applicant :- Shailendra Kumar Singh

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

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

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

Heard Sri Amit Kumar Singh, the learned counsel for the applicant and Sri Arvind Kumar Singh, the learned counsel appearing on behalf of the State and perused the records.

On 05.07.2022, after hearing learned counsel for the applicant and learned A.G.A. for the State this court had passed the following order:

"Heard Sri Amit Kumar Singh, learned counsel for the applicant, Sri Jayant Singh Tomar, 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/F.I.R. No.0482 of 2019, under Sections 419, 420, 467, 468 and 471 IPC, Police Station Gauriganj, District Amethi, with a prayer to enlarge him on anticipatory bail.

Learned counsel for the applicant has argued that the applicant has been falsely implicated in the present case and he has not committed any offence whatsoever. Learned counsel for the applicant has further argued that the allegations against the applicant are that he had secured the job of Assistant Teacher in the year 2016 by filing forged degree of B.El.Ed. He has further argued that there are contradictory reports from the department regarding the genuineness of the said degree of B.El.Ed. The same department has at one time stated it to be a genuine one and at the other time it has stated to be forged one. 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.

Per contra, Sri Jayant Singh Tomar, learned A.G.A. has vehemently opposed the prayer for grant of anticipatory bail on the ground that in all sixteen persons have secured job on forged documents, but he could not dispute the fact that the co-accused person Dharmendra Singh whose case is on similar footing has already been granted interim protection by this Court vide order dated 30.06.2022 passed in Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No.1010 of 2022.

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 05.09.2022 in the additional cause list.

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 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- Shailendra Kumar Singh 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. "

Although a counter affidavit has been filed on behalf of the State but no new fact has come to light. The co-accused Dharmendra Singh has been granted anticipatory bail by means of an order dated 13.07.2023, passed by this court in Criminal Misc. Anticipatory Bail Application No.1010 of 2022.

The learned counsel for the applicant has submitted that the bail bonds have also been furnished.

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 05.07.2022 is made absolute and the anticipatory bail application is **allowed**.

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(Subhash Vidyarthi, J.)

Order Date :- 13.12.2023

Ram.