

Court No. - 11

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 1378 of 2023

Applicant :- Riyajuddin

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

Counsel for Applicant :- Rajesh Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh, J.

1. Heard Shri Rajesh Kumar Singh, learned Counsel for the applicant, Shri P.C. Agarwal, learned Counsel appearing on behalf of opposite party No.2 and Shri Anurag Verma, learned A.G.A. for the State and perused the record.
2. The present application under Section 438 Cr.P.C. has been filed seeking bail in anticipation of the arrest of the accused-applicant in Case Crime No.747 of 2014 under Section 419, 420, 467, 468 and 471 I.P.C., Police Station-Kotwali Nagar, District-Pratapgarh.
3. The accused-applicant purchased a piece of land from the mother of the complainant vide a registered sale deed dated 06.08.2005. Thereafter, the mother of the complainant filed a civil suit for cancellation of the said sale deed in the year 2006. The civil suit for cancellation of the said sale deed is still pending before the competent court. However, after the death of the mother of the complainant in the year 2012, the F.I.R. in question came to be registered. After the registration of the said sale deed in favour of the accused-applicant, the same was also transferred twice to two different persons.
4. It is also important to note that initially the police after investigation filed the closure report in respect of the F.I.R. in question. The present complainant filed a protest application, on which the accused-applicant has been summoned.
5. Considering the fact that the incident allegedly took place on 06.08.2005 and the civil suit for cancellation of the said sale deed was filed in the year 2006, which is still pending in the competent court and the F.I.R. in question came to be registered only in the year 2014, this Court deems it appropriate to enlarge the accused-applicant on anticipatory bail.
6. In view thereof, the present application is **allowed**.
7. Let the applicant-**Riyajuddin**, who is involved in aforementioned case crime be enlarged on anticipatory bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions.

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the Trial Court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A IPC.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C., may be issued and if applicant fails to appear before the Court on the date fixed in such proclamation, then, the Trial Court shall initiate proceedings against him, in accordance with law, under Section 174-A IPC.

(iv) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

8. In case of breach of any of the above conditions, it shall be a ground for cancellation of anticipatory bail.

(Dinesh Kumar Singh, J.)

Order Date :- 19.6.2023

Piyush/-