

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 1434 of 2023

Applicant :- Paras Nath Tiwari

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

Counsel for Applicant :- Shishir Pradhan,Faiqa Khan,Kunwer
Dhananjay Singh

Counsel for Opposite Party :- G.A.,Alok Kumar Tripathi

Hon'ble Subhash Vidyarthi,J.

1. On 28.06.2023, after hearing the learned counsel for the applicant and the learned A.G.A. this Court had passed the following interim order -

"The present bail application under Section 438 Cr.PC. has been filed seeking anticipatory bail in case crime/F.I.R No. 35/2022, under Sections 498-A/323/504/506/342/307 I.P.C. and Section 3/4 of D.P. Act, P.S. Madeyganj, District Lucknow.

Heard learned counsel for the applicant and learned A.G.A. for the State as well as Shri Alok Kumar Tripathi, learned counsel for the complainant.

Learned counsel for the applicant submits that sale deed executed in favour of Uma Devi and Kusum Shukla have been granted interim protection in the anticipatory bail application filed by them. Both the orders passed by this Court are on record as Annexure No. 9 and 10. They were the beneficiaries of the alleged sale deed. It is further submitted that though it is a pure civil dispute regarding the property in dispute two civil suits have been filed, one by the applicant side and another by the complainant side before the competent court of civil jurisdiction. Interim injunction orders have been passed in both the civil suits which are on record.

It is further submitted that a pure civil dispute is sought to be given a criminal colour by filing an F.I.R. with a delay of one year and eight months.

Learned counsel for the applicant submits that the applicant is not a previous convict; he has no criminal antecedents and he undertakes to cooperate in the investigation.

Learned Addl. Government Advocate as well as learned counsel for the complainant opposed the bail application and prays for and is allowed 15 days' time to file counter affidavit.

List on 11.07.2023 after connecting with CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. Nos. - 347 of

2023 and 455 of 2023.

Considering the above aspect of the matter, perusal of the record as well as the fact that the applicant is having no criminal antecedents, civil suit regarding the disputed property are pending wherein interim injunction have been granted and the applicant undertakes to cooperate in the investigation as also the judgment of Apex Court passed in Sushila Aggarwal and others versus State (NCT of Delhi) and another (2020)5 SCC 1, it would be appropriate to grant interim protection to the applicant under Section 438 Cr.P.C.

Till the next date of listing, it is provided that in the event of arrest, the applicant shall be released on bail on his furnishing a personal bond and two sureties of the like amount to the satisfaction of the arresting officer/I.O./S.H.O. concerned.

The applicant shall cooperate in the investigation and he will not influence the witness.

The accused-applicant will remain present as and when the arresting officer/I.O./S.H.O. concerned call(s) for investigation/interrogation.

The applicant shall not leave India without previous permission of the Court.

In case of default, it would be open for the investigating agency to move application for vacation of this interim protection."

2. Neither any counter affidavit has been filed nor anything 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.

3. Application is pending since 29.08.2023.

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 28.06.2023 is made absolute and the anticipatory bail application is **allowed**.

Order Date :- 6.11.2023

Pradeep/-