

Court No. - 11

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438

CR.P.C. No. - 1415 of 2023

Applicant :- Ashok Nishad

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

Counsel for Applicant :- Shailendra Kumar Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh, J.

1. Heard Shri Shailendra Kumar Tiwari, learned counsel for the applicant and Shri Nikhil Singh, 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.191 of 2023 under Section 60, 63 and 72 of Excise Act and 171-F I.P.C., Police Station-Mohammadpur Khala, District-Barabanki.
3. As per the F.I.R., the vehicle bearing registration No.UP 41 BT 4748 was apprehended having 50 Crate of illicit liquor. The said vehicle belongs to the present accused-applicant. Three persons who were found in the vehicle at the spot with the illicit liquor confessed before the Investigating Officer that the said illicit liquor was requisitioned by the present accused-applicant for distribution in Panchayat Elections.
4. Learned Sessions Court has rejected the anticipatory bail application of the accused-applicant vide order dated 30.05.2023. Neither the ownership nor the recovery of 50 Crate of the said illicit liquor can be denied.
5. Considering the facts, it cannot be said that the accused-applicant was not involved in the commission of the offence at this stage, therefore, this Court does not find any ground to grant anticipatory bail to the accused-applicant inasmuch as the facts of the case are not within the scope of Section 438 Cr.P.C.
6. In view thereof, the present application is hereby **rejected**. However, the accused-applicant is granted ten days' time to surrender before the trial court concerned and apply for regular bail. If the accused-applicant surrenders and applies for regular bail within ten days' from today, the trial court concerned should consider his regular bail application expeditiously in accordance with law.

(Dinesh Kumar Singh, J.)

Order Date :- 19.6.2023

Piyush/-