

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 1489 of 2022

Applicant :- Chheda @ Chheda Lal

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko.
And 3 Others

Counsel for Applicant :- Harish Chandra Yadav

Counsel for Opposite Party :- G.A., Suresh Chandra Shukla

Hon'ble Subhash Vidyarthi, J.

1. On 09.09.2022, after hearing the learned counsel for the applicant and the learned A.G.A., this Court had passed the following interim order -

"Sri Suresh Chandra Shukla, Advocate has filed Vakalatnama on behalf of the first informant, which is taken on record.

Heard Sri Harish Chandra Yadav, learned counsel for the applicant, Sri Suresh Chandra Shukla, learned counsel for the first informant and Sri Shiv Kumar Mishra, learned A.G.A. for the State and perused the material on record.

The present bail application has been filed on behalf of applicant Chheda @ Chheda Lal under Section 438 of the Code of Criminal Procedure, with a prayer to release him on anticipatory bail in Case Crime No. 0269 of 2021, for offence punishable under Sections 419, 420, 467, 468, 471, 504, 506 I.P.C. of the Indian Penal Code, registered at Police Station- Sushant God City, District- Lucknow, till the conclusion of trial, after rejecting the anticipatory bail application of the applicant by Additional Sessions Judge, Court No. 3, Lucknow vide order dated 10.1.2022.

Brief facts of the case are that the first information report dated 24.07.2021 has been lodged against applicant and one Tilak Ram and two unknown persons on the basis of an application under Section 156(3) of Cr.P.C. stating therein that the wife of the first informant Geeta Yadav is recorded co-tenure holder with one Shiv Kumar of Gata No 133 area 0.4330 hectare situated at Village Hariharapur, Pargana- Bijnore, Tehsil- Sarojni Nagar, District Lucknow vide order dated 21.08.2020. Co-accused Teeka Ram executed the sale deed dated 20.11.1999 in favour of the present applicant. After that three agreement to sell have been executed by the present applicant in favour of other persons dated 04.01.2019, 11.10.2019 and 03.11.2020 respectively without any right title or interest in the property. The stay for sale of the property was in operation at the time of execution of the sale deed in favor of the present applicant.

Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case due to ulterior motive. It is further submitted that vide order dated 02.02.2022, Revenue Court, Lucknow decided the mutation proceedings. As far as the sale deed dated

08.09.1983 made by Smt. Jagrana to co-accused Teeka Ram is concerned, the parties are free to file fresh mutation proceedings.

It is further submitted that co-accused Shiv Kumar has filed a Civil Suit No. 557 of 2021 (Shiv Kumar Vs. Teeka Ram and others) and get cancelled the sale deed executed by Smt. Jagrana in favour of Teeka Ram on the basis of compromise dated 26.3.2022. The applicant was never made party in the aforesaid civil litigation and thereafter, applicant has filed an application under Order 9 Rule XIII C.P.C. to set-aside the order dated 26.03.2022 on 18.12.2020 which is pending for disposal.

It is further submitted that one agreement to sell dated 11.10.2019 had already been cancelled by the applicant and one agreement to sell dated 4.1.2019, is forged documents which has been prepared by the other persons. It is further submitted that the first informant claimed her title on the basis of unregistered Will deed dated 18.11.1996.

It is further submitted that the applicants is no more required for custodial interrogation. The applicant has no criminal history and he has not undergone any imprisonment after conviction by any court of law in relation to any cognizable offence previously. It is further contended that the applicant is ready to participate in the investigation.

Learned A.G.A. has opposed the prayer for anticipatory bail of the applicant.

It is settled position of law that the anticipatory bail being an extraordinary privilege should be granted only in exceptional cases. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied, where the Court is prima facie of the view that the applicant has falsely roped in the crime and would not misuse his liberty.

Considering the facts and circumstances of the case and the law laid down by the Hon'ble Apex Court in the case of Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC Online SC 98, ground for grant of ad interim anticipatory bail is made out.

Learned A.G.A. as well as learned counsel for the first informant may file counter affidavit within two weeks.

Rejoinder affidavit, if any, may be filed within one week thereafter.

List on 10.10.2022 for final hearing.

In case of arrest, the applicant, Chheda @ Chheda Lal is directed to be enlarged on anticipatory bail till the hearing of the present application in above case crime number, on his furnishing personal bond of Rs. 25,000/- and two sureties each of like amount before the Station House Officer of Police Station/Court concerned with the following conditions:-

(i) The applicant shall make himself available for interrogation by the police officer as and when required, if investigation is in progress;

(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 such person from disclosing such facts to the Court or to any

police officer;

(iii) The applicant shall not leave the country without the previous permission of the Court and if he has passport, the same shall be deposited by them before the S.S.P./S.P. concerned/Court concerned;

(iv) The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad, self attested by the applicant along-with a self attested identity proof of the said person (preferably Aadhar Card) mentioning the mobile number to which the said Aadhar Card is linked;

(v) The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

The Investigating Officer will continue with the investigation, if it is in progress and will not be affected by this order."

2. Informant has filed a counter affidavit to which a rejoinder affidavit has been filed on behalf of the applicant.

3. When the case is taken up today, no one is present for either of the parties, except the learned AGA-I Sri Anurag Verma,.

4. As the aforesaid reasoned order has already been passed granting interim anticipatory bail to the applicant and no new fact has been placed before the Court warranting variance of the aforesaid order, the application stands **allowed**.

5. In case the applicant has not submitted bail bonds till today, he may do so within a period of two weeks from today.

Order Date :- 2.11.2023

Pradeep/-