

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 1763 of 2022

Applicant :- Amit Singh

Opposite Party :- State Of U.P. Thru. Addl. Principal Secy.
Deptt. Of Home Lko. And Another

Counsel for Applicant :- Arun Kumar Pandey, Mohd.
Rais, Nand Kishore Patel

Counsel for Opposite Party :- G.A., Anand Dubey

Hon'ble Subhash Vidyarthi, J.

1. On 20.10.2022, after hearing the learned counsel for the applicant and the learned A.G.A. this Court had passed the following interim order -

"Heard Sri Amar Nath Dubey, learned counsel for the applicant and Sri Vinay Kumar Shahi, learned Additional Government Advocate for the State-respondents.

This anticipatory bail application has been filed by the present applicant (Amit Singh) apprehending his arrest in Case Crime No.119 of 2022, under Sections 498-A, 323, 506, 313 & 120-B I.P.C. and Section 3/4 of Dowry Prohibition Act, Police Station-Saadatganj, District-Lucknow.

Learned counsel for the applicant has submitted that the present applicant has been falsely implicated in this case as he has not committed any offence as alleged in the prosecution story so narrated in the First Information Report (in short F.I.R.).

On account of prosecution story, so narrated in the F.I.R., the wives of the accused persons, namely Amit Singh and Sumit Singh are the real sisters and they have levelled similar allegations against the accused persons. However, the informant/ complainant of the impugned F.I.R. is a wife of the present applicant. But the allegations regarding 313 I.P.C. have been levelled against both the accused persons. The allegations relating to demand of dowry and tor torturing have also been levelled against both the accused persons.

Attention of this Court has been drawn towards Annexure No.6 of this application which is an interim anticipatory bail order dated 02.09.2022 passed by this Court in the case of co-accused Sumit Singh in Criminal Misc. Anticipatory Bail Application (U/S 438 Cr.P.C.) No.1443 of 2022 calling upon the counter affidavit from the State.

Therefore, learned counsel for the applicant has submitted that since there are only two accused persons, who are the real brothers, one has been granted an interim anticipatory bail and that petition is pending consideration before this Court. Therefore, on the basis of principles of

parity the present applicant may also be given an interim anticipatory bail.

Sri Vinay Kumar Shahi, learned Additional Government Advocate has however opposed the aforesaid prayer of learned counsel for the applicant.

On being confronted the learned Additional Government Advocate as to whether the co-accused Sumit Singh has been granted anticipatory bail by this Court, he has submitted that since the aforesaid order is on record of the Court, therefore, he has nothing to say.

Therefore, without entering into merits of the issue, considering the arguments of learned counsel for the parties, I find it appropriate that liberty of the present applicant may be protected till the next date of listing or till filing of the charge-sheet/ police report under Section 173 (2) Cr.P.C., whichever is earlier, in view of the dictum of Apex Court rendered in re: Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC online SC 98.

Therefore, it is directed that in the event of arrest, applicant (Amit Singh) shall be released on anticipatory bail in the aforesaid case crime number, till the next date of listing or till filing of the charge-sheet/ police report under Section 173 (2) Cr.P.C., whichever is earlier, on his furnishing a personal bond of Rs.25,000/- with two sureties each in the like amount to the satisfaction of the arresting authority/ court concerned with the following conditions:-

1. That the applicant shall make himself available for interrogation by the police officer as and when required;
2. that 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 from disclosing such facts to the court or to any police officer or tamper with the evidence;
3. that the applicant shall not leave India without prior permission of the court;
4. that the applicant shall not pressurize/ intimidate the prosecution witnesses and shall not tamper with evidence during trial;
5. that the applicant shall appear before the trial court on each date fixed unless personal presence is exempted;
6. that in case of breach of any of the above conditions the court below shall have the liberty to cancel the bail;
7. that in default of any of the conditions mentioned above, the learned counsel for the State shall be at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicant.

Learned Additional Government Advocate may file counter affidavit.

List this case on 14.11.2022 along with Criminal Misc. Anticipatory Bail Application (U/S 438 Cr.P.C.) No.1443 of 2022.

Before parting with, the applicant is directed to appear before the Investigating Officer on 22.10.2022 at 11:00 a.m. sharp to co-operate in the investigation and he shall further co-operate in the investigation, failing which, benefit of this order shall not be extended to him and the Investigating Officer/ the Court concerned would be at liberty to take any coercive steps against him strictly in accordance with law."

2. Although a counter affidavit has been filed, nothing 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 06.09.2022.

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 20.10.2022 is made absolute and the anticipatory bail application is ***allowed***.

Order Date :- 2.11.2023

Pradeep/-