Court No. - 14

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 1955 of 2023

Applicant :- Ajeet Yadav
Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt. Lko.
Counsel for Applicant :- Atul Verma,Akhilendra Pratap Singh,Vinod Kumar Yadav
Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. As per report of the Chief Judicial Magistrate, Lucknow of date 25.09.2023, opposite party no.2 has been sufficiently served. However, he is not represented.

2. Heard Shri Vinod Kumar Yadav, learned counsel for the applicant as well as learned A.G.A. for the State and perused the record.

3. The instant application has been moved by the accused-applicant - **Ajeet Yadav** in Case Crime No.529 of 2022, under Sections 323, 506, 376-D I.P.C. and Section 67 Information Technology Act, Police Station Vibhuti Khand, District Lucknow, with the prayer to enlarge him on anticipatory bail, as he is apprehending arrest in the above-mentioned case.

4. Learned counsel for the accused-applicant while pressing the bail application submits that the applicant has been falsely implicated in this case and he has not committed any offence as claimed by the prosecution.

5. It is further submitted that the allegations as levelled in the F.I.R. as well as in the statement of the prosecutrix recorded under Sections 161 and 164 Cr.P.C. are highly improbable, concocted and could not be believed on the touchstone of probability and, moreso, the story appears to be doubtful as the offence of 'gang rape' has been attributed to three real brothers.

6. It is also submitted that the prosecutrix is still a tenant in the house of the applicant. In this regard, learned counsel for the applicant has drawn the attention of this Court towards a copy of the tenancy agreement executed between the brother of the applicant namely Ajay with the prosecutrix.

7. It is further submitted that the prosecutrix/victim has also submitted a copy of affidavit which has been placed as at page no.71 to the anticipatory bail petition and a copy of which has also been provided to the investigating officer, wherein prosecutrix has stated that she do not want to prosecute the instant applicant.

8. It is also submitted that applicant had earlier approached this Court by filing Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No.66 of 2023 and vide order dated 12.01.2023 a Coordinate Bench of this Court had granted interim protection to the applicant and thereafter vide order dated 03.04.2023, the said anticipatory bail application was disposed of with direction that till submission of police report under Section 173(2) Cr.P.C., in the event of the arrest of the applicant, he shall be released forthwith on anticipatory bail on the terms and conditions enumerated therein.

9. It is further submitted that now charge sheet has been submitted on 04.02.2023. It is also submitted that when the aforesaid anticipatory bail application was filed, charge sheet was not submitted and it could only be submitted on 04.02.2023 and the fact of filing of charge sheet was not in the knowledge of the applicant at the time of passing of order dated 03.04.2023 while relying on the law laid down by Hon'ble Supreme Court in ***Sushila Aggarwal and Ors. Vs. State (NCT of Delhi) and Ors., MANU/SC/0100/2020,*** it is submitted that the applicant has not flouted any condition as mentioned in the orders dated 12.01.2023 and 03.04.2023 passed in Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No.66 of 2023 and he has cooperated throughout the investigation. The applicant is a law abiding citizen and there is no apprehension that after being granted facility of anticipatory bail, he may flee from the course of law or otherwise misuse the liberty and the confinement of the applicant would not only jeopardize his personal liberty but also bring a bad name to their reputation, thus protection from arrest be granted during pendency of the trial.

10. It is further submitted that under orders of this Court dated 18.09.2023, the applicant had appeared before the trial court and has submitted personal bond and sureties bonds and he is regularly appearing before the trial court. Thus he would cooperate in the early disposal of the case and would not seek adjournment and also remain present before the trial court whenever his presence would be required.

11. Learned A.G.A. on the other hand submits that charge sheet in this case has been filed on 04.02.2023, therefore, the

applicant is not entitled to be released on anticipatory bail.

12. Having heard learned counsel for the parties and having perused the record, it is evident that the applicant had earlier approached this Court by filing Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No.66 of 2023 and protection from arrest was granted to the applicant on 12.01.2023 and the said anticipatory bail application was finally disposed of vide order dated 03.04.2023 granting protection from arrest to the applicant till filing of police report under Section 173(2) Cr.P.C. and now the charge sheet has been submitted. Nothing has been brought in the knowledge of this Court, which may suggest that after grant of anticipatory bail during the course of investigation, the applicant has not cooperated in the investigation and it is submitted that he is regularly appearing before the trial court and is abiding by all the terms and conditions, which have been mentioned in the order.

13. Thus the instant anticipatory bail application moved on behalf of the applicant is ***allowed*** and it is provided that in the event of arrest of the applicant in connection with above mentioned case crime number applicant - **Ajeet Yadav** shall be released forthwith on his executing a personal bond to the tune of Rs.50,000/- (Rupees Fifty Thusand) with two sureties each in the like amount to the satisfaction of the SHO/ Investigating Officer/ Police Personnel of police station concerned/trial court, subject to the following conditions:

1. The applicant shall not leave India during the pendency of trial without prior permission from the concerned trial Court.

2. The applicant shall Cooperate in the investigation in case of further investigation and will make himself available as and when required by the Investigating officer of the case, even for the recovery of any fact.

3. The applicant shall not make any attempt to influence the prosecution witnesses and will also not commit any crime during his release on anticipatory bail.

4. The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence especially when the witnesses are present in court.

5. The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C.

14. It is clarified that all the observations contained in this order are only for disposal of this anticipatory bail application and shall not affect the trial proceedings in any manner.

15. If the applicant has already submitted personal bond and sureties in compliance of the order of this Court dated 28.08.2023, he need not to submit fresh personal bond and sureties unless required, for any other reason, by the trial court.

Order Date :- 13.10.2023
Anupam S/-

Digitally signed by :-
ANUPAM SINGH PATEL
High Court of Judicature at Allahabad,
Lucknow Bench