Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 2209 of 2023

Applicant :- Mohd. Sahil And Another
Opposite Party :- State Of U.P. Thru. Prin. Secy. Deptt. Civil Sectt. Lko And Another
Counsel for Applicant :- Firoz Ahmad Khan
Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Firoz Ahmad Khan, the learned counsel for the applicants, Sri Jayant Singh Tomar, the learned AGA-I for the State and perused the records.

2. The instant application has been filed by the applicants seeking anticipatory bail in an FIR bearing Case Crime No. 118 of 2023, under Section 379 IPC, Police Station Hathigawan, District Pratapgarh.

3. The aforesaid case has been registered on the basis of an FIR lodged on 03.07.2023 against one Abu Zaid and 5-6 other persons, stating that the informant's five buffalos had gone missing on 19.06.2023 and he had seen the buffalos loaded on a pick up vehicle which is registered in the name of co-accused Abu Zaid.

4. In the affidavit filed in support of the application, it has been contended that the applicants are innocent, they have falsely been implicated in the present case and that they have no criminal history.

5. The applicants have been implicated on the basis of custodial statement of one Ehtaram, who stated that the applicant and two other persons were involved with him in commission of offence. Rs. 600/- were recovered from the co-accused Ehtaram and he allegedly confessed that it was a part of sale proceeds of the stolen buffalos.

6. Learned AGA-I has opposed the bail application but on the basis of instructions provided by him, he stated that apart from co-accused Ehtaram, statement of no other person has been recorded by the Investigation Officer.

7. Having considered the aforesaid facts and circumstances of

the case and keeping in view the fact that the incident occurred on 19.06.2023 whereas FIR has been lodged on 03.07.2023; that the Investigating Officer has not recorded statement of the named accused, who is owner of the vehicle and the applicant has been implicated on the basis of custodial statement of another co-accused persons, from whom merely Rs. 600/- has been recovered and that the applicants are 20 & 21 years old persons having no criminal history and without making any observations which may affect the outcome of the case, I am of the view that the aforesaid facts are sufficient for making out a case for granting anticipatory bail to the applicants.

8. In view of the above, the anticipatory bail application of the applicants is ***allowed***. In the event of arrest/ appearance of applicants- ***(i) Mohd. Sahil***, ***(ii) Ehtesham*** before the learned Trial Court in the aforesaid complaint case, they shall be released on anticipatory bail on his furnishing personal bond and two solvent sureties, each in the like amount, to the satisfaction of S.H.O./Court concerned on the following conditions and subject to any other conditions that may be fixed by the Trial Court:

(i). That the applicants shall appear before the trial court on each date fixed, unless personal presence is exempted;

(ii). That the applicants 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 him from disclosing such facts to the court or to any police officer or tamper with the evidence;

(iii). That the applicants shall not pressurize/ intimidate the prosecution witness.

Order Date :- 10.10.2023
Pradeep/-

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