

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2266 of 2023

Applicant :- Nitin Singh

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home,
Lucknow, U.P. And Another

Counsel for Applicant :- Anil Mishra, Satyam Singh

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Satyam Singh, the learned counsel for the applicant, Sri Jayant Singh Tomar, the learned AGA-I for the State and perused the records.

2. The instant application has been filed by the applicant seeking anticipatory bail in an FIR bearing Case No. Case Crime No. 503/2023, under Section 3(1) UP Gangster & Anti Social Activities (Prevention) Act, 1986, Police Station Raunahi, District Ayodhya.

3. Learned AGA-1 has raised a preliminary objection against the maintainability of the anticipatory bail application.

4. Section 438 Cr.P.C., which makes a provision for grant of bail to person apprehending arrest, contains following provision in sub-section (6) thereof:

"438. Direction for grant bail to person apprehending arrest.

(6) Provisions of this section shall not be applicable,-

(a) to the offences arising out of,-

(i) the Unlawful Activities (Prevention) Act, 1967;

(ii) the Narcotic Drugs and Psychotropic Substances Act, 1985;

(iii) the Official Secret Act, 1923;

(iv) the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986.

(b) in the offences, in which death sentence can be awarded."

5. Therefore, grant of pre-arrest bail is barred under sub-section

(6) (a) (iv) of Section 438 of Cr.P.C.

6. Accordingly, the anticipatory bail application is ***rejected*** as not maintainable.

Order Date :- 17.10.2023

Pradeep/-