

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438

CR.P.C. No. - 2303 of 2023

Applicant :- Abu Zaid @ Abzaid Shekh

Opposite Party :- State Of U.P. Thru. Prin. Secy. Deptt. Home 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 applicant as well as the learned Additional Government Advocate appearing on behalf of 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 the applicant and 5-6 other persons, stating that the informant's five buffaloes had gone missing on 19.06.2023 and he had seen the buffaloes loaded on a pick up vehicle which is registered in the name of the applicant.

4. In the affidavit filed in support of the application, it has been contended that the applicant is innocent, he has falsely been implicated in the present case and that he has no criminal history. Co-accused-Mohd Sahil and Ehtesham have been granted anticipatory bail by this Court by means of the order dated 10.10.2023 passed in CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. 2209 of 2023.

5. 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.

6. 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 although the prosecution case is that it was seen in CCTV footage that five buffaloes were seen loaded in the applicant's pick up, the applicant has not been identified on the basis of CCTV footage and the offences carry a maximum punishment of imprisonment less than 7 years; that the applicant has 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 applicant is **allowed**. In the event of arrest/ appearance of applicant- Abu Zaid @ Abzaid Shekh before the learned Trial Court in the aforesaid complaint case, he 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 applicant shall appear before the trial court on each date fixed, unless personal presence is exempted;

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

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

(Subhash Vidyarthi, J.)

Order Date :- 18.10.2023
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