

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 2393 of 2023

Applicant :- Abdullah

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

Counsel for Applicant :- Nijam Ahamad

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Nijam Ahamad, the learned counsel for the applicant as well as Sri Arpit Kumar, the learned Additional Government Advocate appearing on behalf of the State and perused the records.

2. The instant application has been filed by the applicant seeking anticipatory bail in F.I.R. bearing Case Crime No.177 of 2022, under Sections 3/5A/8 U.P. Prevention of Cow Slaughter Act, 1955 and 11 of Prevention of Animal Cruelty Act, 1960, registered at Police Station Jaitpur, District Ambedkar Nagar.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 16.11.2022 against the Driver of a vehicle and two other persons, stating that on the basis of information received from a mukhbir, police has intercepted a pick up vehicle. Driver of the vehicle and two other persons escaped. Four cow progenies were loaded in the vehicle.

4. In the affidavit filed in support of the anticipatory bail-application, it has been contended that the applicant is innocent, and he has falsely been implicated in the present case. Applicant's involvement in 3 other cases has been disclosed in para 23 of the affidavit in all of which, he has been granted bail. The applicant has been implicated in the present case on the basis of statement of the vehicle owner on 18.03.2023, who stated that the applicant and the driver Rashid had hired the vehicle on the pretext of transporting some vegetables.

5. The learned A.G.A. has opposed the prayer for bail and he has submitted that a proclamation under Section 82 Cr.P.C. has already been initiated against the applicant. In view of the law laid down by the Hon'ble Supreme Court in the case of **Lavesh vs State (NCT of Delhi)**: (2012) 8 SCC 730, the applicant is not entitled to be granted anticipatory bail.

6. Replying to the aforesaid submission, learned counsel for the applicant has submitted that it is stated in the affidavit that the applicant has no knowledge about his false implication in the present case and he came to know about it when notices under Section 82 Cr.P.C. was pasted on his house. The applicant has approached the Sessions Court seeking anticipatory bail immediately thereafter, which was registered by means of the order dated 22.09.2023, thereafter the applicant has promptly approached this court.

7. Having considered the aforesaid facts and circumstances of the case, I am of the view that as the applicant was not named in the FIR and his name got surfaced in the statement of vehicle owner recorded about 5 months after lodging of the FIR and the applicant has approached the Court promptly after coming to know about the cases, mere issuance of the proclamation under Section 82 Cr.P.C. will not create bar against grant of anticipatory bail to the applicant.

8. In view of the above, the anticipatory bail application of the applicant is **allowed**. In the event of arrest/ appearance of **applicant- Abdullah** before the learned Trial Court in the aforesaid case crime, 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;

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(Subhash Vidyarthi, J.)

Order Date :- 28.10.2023
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