

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 2511 of 2023

Applicant :- Gaurav Pratap Singh Bhaduriya

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

Counsel for Applicant :- Manoj Kumar Misra

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Manoj Kumar Misra, the learned counsel for the applicant as well as Sri Anurag Verma, the learned Additional Government Advocate-I 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.669 of 2016, under Sections 147, 148, 149, 307 I.P.C., registered at Police Station Kotwali, District Raebareli.

3. The aforesaid case has been registered on the basis of an F.I.R. alleging that when the informant was getting his shop cleaned at about 5:00 am on 22.11.2016, all the accused persons came in a car at about 5.30 am and on the exhortation of the co-accused Kusum Singh, other accused persons fired shots with rifle and other firearms. Informant ran away to save himself without opening the lock of the shop but he suffered two pallet injuries on left arm and back.

4. Medico legal examination report of the informant mentions two abrasion in left arms and back. X ray examination mentions no abnormality.

5. 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 for the reasons that a Regular Suit No.693 of 2008 is pending in the Court of Civil Judge, Junior Division, Raebareli and on 06.08.2008 the Court has passed an order directing the parties to maintain status quo. Learned counsel for the applicant has stated that the aforesaid order still continues to be operative. Learned counsel for the applicant has submitted that the co-accused Kusum Singh and Shivshankar singh Bhaduriya have already been granted anticipatory bail in the present case by means of an order dated 04.08.2023, passed by this Court in Criminal Misc. Anticipatory Bail Application No.1731 of 2023 and the order dated 18.10.2023 passed by this Court in Criminal Misc. Anticipatory Bail Application No.2290 of 2023 .

6. Sri Anurag Verma, the learned A.G.A. has opposed the prayer for bail and on the basis of instructions he has submitted that a Suit No.693 of 2008 was dismissed for want of prosecution on 06.12.2014 and the interim order directing parties to maintain status quo also came to an end.

7. The learned counsel for the applicant has refuted the aforesaid statement and he has submitted that the suit was thereafter restored along with the interim order and the applicant is continuously depositing the rent of the premises.

8. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the FIR alleges that the informant was getting his shop cleaned at 5.00 am and thereafter it proceeds to allege that when the accused persons attacked the informant at 5.30 am he ran away without opening the lock of the shop, which statement is apparently self contradictory and raises a doubt against the prosecution story, coupled with the fact that the applicant has no criminal history, a civil suit regarding the shop is still pending and a co-accused has already been granted anticipatory bail by this court 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 applicant.

9. In view of the above, the anticipatory bail application of the applicant is allowed. In the event of arrest/ appearance of applicant-**Gaurav Pratap Singh Bhaduriya** before the learned Trial Court in the aforesaid case crime, she shall be released on anticipatory bail on her 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.

Order Date :- 7.11.2023/Renu