

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 2537 of 2023

Applicant :- Ved Prakash Gupta

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

Counsel for Applicant :- Shailendra Kumar Misra

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Shailendra Kumar Misra, learned counsel for the applicant as well as Sri Akhilesh Kumar Vyas, learned A.G.A. for the State and perused the record.

2. The instant application has been filed seeking anticipatory bail in case crime No. 454 of 2019, under Sections 60(1) of U.P. Excise Act and Sections 420 I.P.C, registered at Police Station Pihani, District Hardoi.

3. The aforesaid case has been registered on the basis of a F.I.R. lodged on 04.08.2019 against 8 persons, including the applicant, alleging that the police had raided house of the applicant's brother Ved Prakash, where illicit liquor was found and some other articles were found indicating that the accused persons were involved in preparing noxious liquor.

4. After investigation, the investigating officer had submitted a final report on 08.12.2019, in respect of all the accused persons except co-accused Saurabh Gupta against whom the investigation continued. Subsequently, the investigating officer recorded statement of co-accused Saurabh Gupta, who stated that his entire family is involved in the business and thereupon another charge sheet was submitted on 29.11.2020 in which the applicant is also been made an accused.

5. The learned A.G.A has opposed the application stating that the applicant has evaded the proceedings after submission of the charge sheet on 29.11.2020.

6. Replying to the aforesaid objection, learned counsel for the applicant has submitted that the applicant had stated in para 25 of the affidavit that he had

engaged another counsel, who did not file the application and he returned the file in September, 2023.

7. The applicant had approached the Session Court with prayer for grant of anticipatory bail in June, 2022 and his application was rejected by means of an order dated 29.06.2022.

8. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the charge sheet was filed on 29.11.2020, the anticipatory bail application of the applicant was rejected by the Session Court on 29.06.2022 and the present application has been filed on 04.11.2023 and the explanation given by the applicant regarding the delay in filing the application is vague as he has neither disclosed the name of the counsel nor the date of engaging him or the date of return of the file, I am of the view that the aforesaid facts indicates that the applicant is not cooperating with the proceedings against him and, therefore, he is not entitled to receive discretion of this Court by granting him pre arrest bail.

9. The anticipatory bail application stands **rejected** accordingly. However, in case the applicant files an application for grant of bail, the same shall be considered and decided on its merits, without being influenced by any observations made in this order.

(Subhash Vidyarthi,J.)

Order Date :- 7.11.2023
Preeti.