

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2623 of 2023

Applicant :- Kanahiya @ Kanhaiya Lal Singh

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy.,
Home, Lucknow

Counsel for Applicant :- Vyomesh Chandra Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Vyomesh Chandra Shukla, the learned counsel for the applicant as well as Sri Jayant Singh Tomar, 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. 388 of 2022, under Sections 420, 467, 468, 471 IPC & Sections 60, 63, 72 U.P. Excise Act, Police Station Maholi, District Sitapur.
3. The aforesaid case has been registered on the basis of an F.I.R. lodged by a Sub Inspector of Police on 17.07.2022 against five persons, including the applicant, stating that a vehicle was intercepted on the basis of an information received from a mukhbir and three persons were arrested. Some illicit liquor and some other articles were recovered from the vehicle.
4. The learned counsel for the applicant has submitted that the applicant has been implicated in the present case on the basis of custodial statement of co-accused Ram Babu Rai, who stated that he was an employee of the applicant.
5. In the affidavit filed in support of the application it has been stated that the applicant is innocent, he has been falsely implicated in the present case and he has no criminal history.
6. The learned A.G.A. has opposed the prayer for bail but he could not dispute the aforesaid aspects of the matter.
7. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the applicant has been implicated solely on the basis of custodial statement of co-accused person and no incriminating material has been recovered from his possession, that the applicant has no

criminal history and that co-accused Ram Babu Rai, on the basis of whose statement the applicant has been implicated in the present case, as also other two co-accused persons arrested on the spot namely Shiv Shankar and Pawan Kumar Saav have already been granted bail in the present case 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 during pendency of the trial.

8. In view of the above, the anticipatory bail application of the applicant is allowed. In the event of arrest/ appearance of applicant-**Kanahiya @ Kanhaiya Lal Singh** before the learned Trial Court in the aforesaid case crime, he shall be released on anticipatory bail during pendency of the trial 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.

Order Date :- 9.11.2023

Pradeep/-