

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 2678 of 2023

Applicant :- Dhruv Kharbanda

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

Counsel for Applicant :- Praveen Tripathi, Sudha Pal

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Praveen Tripathi, the learned counsel for the applicant as well as Sri Amitabh Chaturvedi, 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. 153 of 2022, under Sections 307/ 352 IPC, Police Station Mahanagar, District Lucknow.
3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 09.06.2022 against the applicant and some other unnamed persons, stating that the applicant was making attempt to take illegal possession of some parking area in a building and upon being opposed, he fired a shot with intention of killing the informant but the shot missed the informant.
4. In the affidavit filed in support of the application it has been stated that the applicant is innocent, he has falsely been implicated in the present case and that he has no criminal history.
5. The learned counsel for the applicant has stated that it is the applicant alone, who has suffered some injuries in the incident and a copy of his injury report is annexed as Annexure No. 4 to the affidavit.
6. The applicant had earlier filed Criminal Misc. Writ Petition No. 4096 of 2022 and on 23.06.2022, a Division Bench of this Court had passed an interim order staying arrest of the applicant. The writ petition was disposed of by means of an order dated 16.08.2023 and the interim protection was continued for a period of four weeks or till submission of a charge sheet, whichever is earlier.
7. An FIR bearing Case Crime No. 295 of 2022 has been lodged by the applicant's father also stating that the applicant was getting a grill affixed in his parking area, which was opposed by the informant and the applicant was assaulted.
8. A copy of a sale deed has been annexed with the affidavit indicating that the

parking area has been purchased by the applicant and his mother and the dispute occurred when he was securing the area purchased by him with a grill.

9. The learned A.G.A. has opposed the prayer for bail but he could not dispute the aforesaid aspects of the matter.

10. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that no other person, except the applicant himself, has suffered any injury in the incident; that the dispute occurred when the applicant was trying to secure the parking area which has been purchased by him through a registered sale deed; that the applicant's arrest had previously been stayed by a Division Bench of this Court and 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 applicant during pendency of the trial.

11. In view of the above, the anticipatory bail application of the applicant is **allowed**. In the event of arrest/ appearance of applicant-**Dhruv Kharbanda** 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 :- 22.11.2023

Pradeep/-