

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 2752 of 2023

Applicant :- Suresh Pal (Home Guard)

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

Counsel for Applicant :- Aditya Vikram Singh

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Aditya Vikram Singh, the learned counsel for the applicant as well as Sri Rakesh Kumar Singh, learned A.G.A. 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. 461 of 2023, under Sections 420, 467, 468, 471 I.P.C., registered at Police Station Kotwali Dehat, District Hardoi.
3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 03.08.2023 alleging that the applicant is a former Home Guard. While being appointed on the post of Runner in the year 1984, the applicant had claimed his date of birth as 01.02.1966 but when posts of Runner (Class-IV) were advertised in the year 2005, he applied claiming his date of birth to be 19.07.1975 and he got appointed on 24.05.2005. Upon receipt of a complaint, an inquiry was conducted and it was found that the applicant had secured appointment on the basis of a false date of birth and had obtained salary from the public exchequer.
4. In the affidavit filed in support of the bail application it has been stated that the allegations levelled in the F.I.R are false, as the applicant is not a former Home Guard and he is still working as a Home Guard. The applicant had filed a Writ A No. 4161 of 2022, challenging the order of termination of his service and the the applicant had challenged the order of termination by filing Writ A No. 4161 of 2022, which was allowed by a judgement and order dated 01.03.2023 whereby the termination order was set aside while leaving it open to initiate

fresh inquiry proceedings within four months and decide the the same expeditiously.

5. In furtherance of the aforesaid order dated 01.03.2023 passed by this court, an order was passed by the District Commandant, Home Guard, Hardoi, on 29.05.2023 reinstating the applicant in service.

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 order of termination of the petitioner's service on the same ground has already been set aside by this court and thereafter the District Commandant himself has passed an order reinstating the applicant in service; that the F.I.R has been filed subsequently on 03.08.2023 wrongly describing the applicant as former Home Guard and leveling allegations which have already been disbelieved 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.

8. In view of the above, the anticipatory bail application of the applicant is **allowed**. In the event of arrest/ appearance of applicant- **Suresh Pal (Home Guard)** 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;

(Subhash Vidyarthi, J.)

Order Date :- 1.12.2023

Preeti.