

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2706 of 2023

Applicant :- Nand Kishor

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

Counsel for Applicant :- Pradeep Kumar Rai, Avi Mukteshwar
Nath Singh, Prakarsh Pandey, Praveen Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

Heard Sri Pradeep Kumar Rai, the learned counsel for the applicant and Sri Rao Narendra Singh, the learned A.G.A.-I on behalf of the State and perused the records.

On 24.11.2023, after hearing learned counsel for the applicant and learned A.G.A. for the State this court had passed the following order:

"1. Heard Sri Pradeep Kumar Rai, the learned counsel for the applicant as well as Sri Rao Narendra Singh, the learned Additional Government Advocate-I appearing on behalf of the State and perused the records. Supplementary affidavit filed today is taken on record.

2. The instant application has been filed by the applicant seeking anticipatory bail in F.I.R. bearing Case Crime No.1 of 2014, under Sections 409, 120B I.P.C., registered at Police Station Gomti Nagar, District Lucknow.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 01.01.2014 against 19 persons, not including the applicant, alleging various irregularities committed in procuring stones for construction of various memorials. Applicant's name surfaced during investigation as he had supplied some sand stone allegedly on exorbitant rates.

4. In the affidavit filed in support of the anticipatory bail-application, it has been contended that the applicant is an old innocent person, he has no criminal history and he has falsely been implicated in the present case.

5. Learned counsel for the applicant has submitted that out of a

total of 57 accused persons, 44 persons have been granted anticipatory bail, including co-accused Vinod Kumar Srivastava, who was also supplier by means of the order dated 25.07.2022 passed by this Court in CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No.10048 of 2021. Learned counsel for the applicant has further submitted that the investigation stands completed and a charge-sheet has already been submitted wayback in the year 2021.

6. The matter requires consideration.

7. Learned A.G.A. prays for and is granted two weeks' time to file a counter affidavit.

8. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the constructions in question were raised between 2007-12; that the FIR has been lodged in the year 2014; several other accused including co-accused, Vinod Kumar Srivastava have already been granted anticipatory bail, coupled with the fact that 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 interim anticipatory bail to the applicant till disposal of the application.

9. In view of the above, it is provided that in the event of arrest/appearance of applicant-Nand Kishor before the learned Trial Court in the aforesaid case crime till the next date of listing, he shall be released on interim 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;

10. List in the week commencing 11.12.2023."

The State has filed a counter affidavit but no new fact has come to light warraing variance of the aforesaid order. Several co-accused persons have already been granted anticipatory bail by this court.

The learned counsel for the applicant states that the applicant is yet to furnish bail bonds in compliance of the interim order.

Learned A.G.A. did not point out any violation of the conditions of interim anticipatory bail committed by the applicant. Nothing has come to light which may persuade this court to take a view, other than the view taken at the time of granting interim anticipatory bail to the applicant.

In view of above, the interim order dated 24.11.2023 is made absolute and the anticipatory bail application is **allowed**. The applicant is directed to furnish bail bonds within a period of two weeks from today.

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(Subhash Vidyarthi, J.)

Order Date :- 18.12.2023
Ram.