

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S
438 CR.P.C. No. - 2766 of 2023

Applicant :- Babu Khan Alias Dilbahar

Opposite Party :- State Of U.P. Thru. Prin. Secy. (Home), Lucknow

Counsel for Applicant :- Naveen Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

Order on IA-2/23:

1. Heard.

2. This is an application for amendment in the memo of anticipatory bail application. The application is duly supported by an affidavit. The cause shown in the affidavit is sufficient and the amendment is formal in nature.

3. Accordingly, the application is allowed.

4. The learned counsel for the applicant may carry out necessary amendments in the memo of the application for anticipatory bail during course of the day.

Order on memo of anticipatory bail application:

5. Heard Sri Naveen Kumar Pandey, the learned counsel for the applicant as well as Sri Anurag Verma, the learned Additional Government Advocate-I appearing on behalf of the State and perused the records.

6. The instant application has been filed by the applicant seeking anticipatory bail in F.I.R. bearing Case Crime No.155 of 2000, under Section 395 I.P.C. and Section 136 (2) of the Representation of People Act, 1951, registered at Police Station Colonelganj, District Gonda.

7. The aforesaid case has been registered on the basis of an F.I.R. lodged on 20.06.2000 against six persons, including the

applicant, stating that during panchayat elections being held on 20.06.2000 some miscreants torn away some ballot papers and ran away taking a ballot box with them. Some persons present on the spot of occurrence told the names of the accused persons, including the applicant. Some unknown persons had also torn away some ballot papers and had made an unsuccessful attempt of running away with the ballot box but somehow with the assistance of police personnel both the ballot boxes were saved.

8. In the affidavit filed in support of the anticipatory bail-application it has been contended that the applicant is innocent and he has falsely been implicated in the present case. The applicant's involvement in five other cases has been disclosed in para 5 of the affidavit filed in support of the application in all of which the applicant has been granted bail. The applicant had filed Writ Petition No.4033 (MB) of 2000 in which his arrest was stayed. After submission of charge sheet the applicant filed an application under Section 482 Cr.P.C. No.9033 of 2023, which was disposed of by means of an order dated 19.09.2023 granting liberty to the applicant to file an application seeking bail within 15 days from the date of the order and the same was ordered to be decided expeditiously. The operation of the non-bailable warrant issued against the applicant was stayed for the aforesaid period.

9. A supplementary affidavit has been filed by the applicant stating that the application for anticipatory bail has been filed within a period of fifteen days granted by this court by means of an order dated 19.09.2023.

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

11. Having considered the aforesaid facts and circumstances of

the case and keeping in view the fact that the F.I.R. states about the involvement of the applicant on the basis of information given by some persons, whose names have not been disclosed in the F.I.R.; that the incident allegedly took place in the year 2000 and the applicant's arrest was previously stayed by this court and presently the applicant has attained the age of 50 years 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.

12. In view of the above, the anticipatory bail application of the applicant is **allowed**. In the event of arrest/ appearance of **applicant-Babu Khan Alias Dilbahar** 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.

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(Subhash Vidyarthi, J.)

Order Date :- 8.12.2023/Ram.