

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2861 of 2023

Applicant :- Yusuf Ali @ Daddan Shah

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

Counsel for Applicant :- Manoj Kumar Singh

Counsel for Opposite Party :- G.A.,Anshuman Singh

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Manoj Kumar Singh, the learned counsel for the applicant, Sri Akhilesh Kumar Vyas, the learned Additional Government Advocate appearing on behalf of the State as well as Sri Anshuman Singh, learned counsel for the informant 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.0269 of 2022, under Sections 387 and 506 I.P.C., registered at Police Station Dargah Sharif, District Bahraich.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 22.08.2022 alleging that the informant owns a diagnostic center. The applicant had demanded Rs.80 lakhs from the informant's husband-Dr. G.Singh as extortion money and had threatened to kill him upon failure of fulfillment of the demand. Dr. G. Singh had written letters to police officers on 29.4.2022 but no FIR was registered in furtherance thereof. On 16.08.2022, an attempt was made to attack Dr. G Singh by a person riding a motorcycle and carrying a weapon but the incident was avoided because of alertness of his private guard. Thereafter, Dr. G. Singh had communicated about the incident to police officers.

4. The applicant's involvement in 20 previous cases has been disclosed in the affidavit filed in support of the application, in three of which, the investigating officers have submitted Final Reports, two cases stand closed upon expiry of the stipulated period, in one of the cases the applicant has been acquitted, one case does not concern him and in all other cases, he has been granted bail. It has further been stated that the investigation of the present case stands concluded and the charge sheet has already been submitted on 25.08.2022.

5. In response to a specific question put by the I.O., Dr. G. Singh stated that he has not given any money to the applicant at any occasion. He did not give any answer to a question as to when and where the applicant demanded extortion money from him. Dr. G Singh denied any animosity with the applicant. Later on, he stated that the demand of extortion was communicated to him through some other person, whose name was not known to him.

6. The learned A.G.A. as also the learned counsel for the informant have opposed the prayer for bail.

7. Learned counsel for the applicant has submitted that the applicant has a criminal history of one case bearing FIR No.268 of 2023 under Section 419 and 420 IPC lodged in Police Station Payagpur, District-Bahraich on 13.06.2023, stating that the applicant belongs to an upper caste but he has pursued M.B.B.S. course falsely claiming himself to be a person belonging to Schedule Caste on the basis of fake certificate. He has further stated that in the statement of P.W.-1 recorded by the trial court in a case arising out of Case Crime No.113 of 2021 against the applicant, the witness stated that there had been a petty quarrel between the witness and the applicant's nephew and he had told about it to Dr. Genda Singh. Dr. Genda Singh had obtained his thumb impression on blank paper and stamp paper and the witness did not know as to what was written on the document by Dr. G. Singh. Later on, he came to know that the documents had been misused by the Dr. G. Singh for lodging a false complaint.

8. Learned counsel for the applicant had further submitted that the FIR was lodged against the informant's husband after lodging of the present FIR and the statement referred to above was also recorded subsequent to it.

9. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the victim is a doctor but he did not come forward to lodge an FIR of the incident that allegedly occurred against him; the incident allegedly took place on 16.08.2022 whereas the FIR has been lodged on 22.08.2022; no person has witnessed the incident and no person has received any injury in it; in the statement of the informant's husband recorded by the investigating officer, he did not state that the applicant ever demanded any money from him and he merely stated that the demand was communicated through some other person, whose name has not been disclosed by the witness and even the date of the alleged demand has also not been disclosed; I am of the view that the aforesaid facts are sufficient for making out a case for granting anticipatory bail to

the applicant, in spite of his criminal history as although the criminal history is the relevant factor for being taken into consideration while deciding anticipatory bail, it will not override the other relevant facts of the case. It is also relevant that the investigation has already been completed, there is no need to for custodial interrogation of the applicant.

10. In view of the above discussion, the anticipatory bail application of the applicant is **allowed**. In the event of arrest/appearance of **applicant-Yusuf Ali @ Daddan Shah** 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.

Order Date :- 13.12.2023

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