

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL

APPLICATION U/S 438 CR.P.C. No. - 2921 of 2023

Applicant :- Manoj Kumar

Opposite Party :- Union Of India Thru. Deptt. Of Revenue
Intelligence (Dri) Lko.

Counsel for Applicant :- Purnendu Chakravarty,Pranjal Jain

Counsel for Opposite Party :- Digvijay Nath Dubey

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Purnendu Chakravarty, the learned counsel for the applicant as well as Sri Digvijay Nath Dubey, learned counsel for the Department of Revenue Intelligence 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. 09 of 2023, under Section 135 of Customs Act, 1962, registered at Police Station Department of Revenue Intelligence, District Lucknow.

3. The aforesaid case was initiated on the basis of the recovery of 3000 grams gold from one Sanjay Kumar Agarwal while he was travelling in car from Varanasi to Banda. Sanjay Kumar Agarwal was granted bail by means of an order dated 29.09.2023 passed by the Special Chief Judicial Magistrate (customs), Lucknow, on the ground that no charge sheet was filed within the stipulated period. The aforesaid co-accused Sanjay Kumar Agarwal had sought bail after expiry of 20 days, after the maximum period prescribed for filing a charge sheet and yet no charge sheet has been filed in the matter.

4. In the statement of Sanjay Kumar Agarwal, he implicated one

Ashish Kasera, stating that the gold had been provided to him by Ashish Kasera. Ashish Kasera has been granted bail by means of an order dated 04.09.2023 passed by this court in Criminal Misc. Bail Application No. 10944 of 2023.

5. The anticipatory bail application of the applicant has been rejected by the Session Court by means of an order dated 07.12.2023. It is recorded in the rejection order passed by the Session Court that co-accused Ashish Kasera, who had provided the gold to Sanjay Kumar Agarwal, had stated that he is a goldsmith and he had purchased the gold from the applicant.

6. Sri Digvijay Nath Dubey, learned counsel for the Department of Revenue Intelligence (DRI), Lucknow, has vehemently opposed the application and he has submitted that the applicant is involved in smuggling of gold, which is a heinous offence and which adversely affects the economy of the country and, therefore, the applicant is not entitled to be granted anticipatory bail.

7. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that there is no mention in the recovery memo that the gold recovered contained any markings which could prima facie indicate that the gold had been smuggled; that the person from whom the gold was recovered, has been granted bail on the ground that no charge sheet had been submitted even after expiry of the stipulated period; that the person who had been implicated on the basis of statement of that person, has also been granted bail; that the applicant is being implicated in the present case merely on the basis of statement of a person and no incriminating material has been recovered from that person and that the applicant has no criminal history, 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- **Manoj Kumar** 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 :- 18.12.2023

Preeti.