

Court No. - 70

Case :- CRIMINAL MISC. ANTICIPATORY BAIL
APPLICATION U/S 482 BNSS No. - 11528 of 2024

Applicant :- Anil Kumar

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Aditya Gupta, Harsh Vardhan Gupta

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma, J.

1. Heard learned counsel for the applicant; learned A.G.A. for the State and perused the record.

2. The instant anticipatory bail application has been moved by the applicant for enlarging him on bail in Sessions Case No.52 of 2020 (State of U.P. Through Drug Inspector Vs. M/s. Skohind Labs, Baddi Himanchal Pradesh and Others), under Sections 18 (a) (i) r/w Section 16, 17-A (f) b of the Drugs and Cosmetics Act, punishable under Section 27 (b) (i), 27 (d), 28-A, 22 (3) of the Drugs and Cosmetics Act, 1940, P.S. Mursan, District Hathras, during pendency of trial.

3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case being Director of the company having no concern with the alleged offence. He next submits that applicant is suffering from kidney disease and in his support he has filed various documents of medical examination report. It is next submitted that applicant is resident of Himachal Pradesh and is not possible for him to travel. No summons were issued and proceedings under Sections 82 Cr.P.C. and 83 Cr.P.C. has been issued against the applicant.

4. Counsel for the applicant has placed reliance over the recent judgment of the Hon. Apex Court passed in **Asha Dubey Vs. The State of Madhya Pradesh** decided on 12.11.2024 wherein the court has held thus:

"8. Coming to the consideration of anticipatory bail, in the event of the declaration under Section 82 of the Cr.P.C., it is not as if in all cases that there will be a total embargo on considering the application for the grant of anticipatory bail.

9. When the liberty of the appellant is pitted against, this court will have to see the circumstances of the case, nature of the offence and the background

based on which such a proclamation was issued. Suffice it is to state that it is a fit case for grant of anticipatory bail, on the condition that the appellant shall cooperate with the further investigation. However, liberty is also given to the respondents to seek cancellation of bail that has been granted, in the event of a violation of the conditions which are to be imposed by the Trial Court or if there are any perceived threats against the witnesses."

5. It is next submitted that instant case is squarely covered under section 482 B.N.S.S. The applicant has no criminal history to his credit. In case, the applicant is released on bail, he would not misuse the liberty of bail and would co-operate with the trial proceedings. Applicant has definite apprehension of his arrest by the police.

6. Learned AGA opposed the prayer for anticipatory bail of the applicant with the contention that the applicant is not entitled for anticipatory bail as prima facie case is made out. On perusal of order sheet annexed with this anticipatory bail application, it is evident that the applicant is avoiding summons since 2020. In the year, 2021, bailable warrant was issued thereafter non bailable warrant was issued against the applicant but applicant did not appear and respond the warrant, summons and proceedings under Section 82 and 83 Cr.P.C. has been initiated.

7. From the record, it is apparent that applicant had avoided summons and non bailable warrants issued against him since last two years. It cannot be presumed at this stage that applicant had no knowledge about the summons since last four years. Since proceedings under Section 82 and 83 Cr.P.C. has been initiated, and the Apex Court in **State of Haryana vs. Dharamraj, 2023 SCC Online SC 1085** and various other judgments has considered that no anticipatory bail application should be granted when proceedings under Section 82 and 83 have been initiated.

8. Without going into the merits of the case and in view of the Apex Court's judgment **State of Haryana (Supra)**, the applicant is not entitled for any indulgence by this Court.

9. With the aforesaid observation, instant anticipatory bail application is hereby **rejected**.

Order Date :- 20.12.2024

Meenu Singh