

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 256 of 2023

Applicant :- Lukman

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

Counsel for Applicant :- O.P. Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Karunesh Singh Pawar,J.

The present application has been filed by the applicant seeking anticipatory bail in case crime No.771 of 2022 under sections 498-A, 143, 147, 148, 323, 504, 506, 342, 308 I.P.C. and 3/4 Dowry Prohibition Act, P.S. Kotwali, district Unnao.

Heard learned counsel for the applicant and learned A.G.A. for the State as well as perused the record.

This Court while granting interim protection vide order dated 3.2.2023 has passed the following order:-

"The applicant has moved the present application under Section 438 of Cr.P.C. praying for grant of anticipatory bail in Case Crime No.771 of 2022 under sections 498-A, 143, 147, 148, 323, 504, 506, 342, 308 I.P.C. and 3/4 Dowry Prohibition Act, P.S. Kotwali, district Unnao. Heard learned counsel for the applicant and learned A.G.A. for the State.

It is submitted on behalf of the applicant that as per statement of the injured Sehnaj Khan, apparently, informant side is aggressor. They came at the house of the applicant. The allegation of causing assault on Sehnaj is on Salman. General role has been assigned to the applicant. The applicant has suffered grievous injuries, total 8 in number.

It is submitted that the co-accused Gufran Ali and four others who were assigned similar role have been granted anticipatory bail by this court vide order dated 31.1.2023 passed in Anticipatory Bail No.227 of 2023.

Learned counsel submits that the applicant has cooperated in the investigation. Charge sheet has been filed. He undertakes to cooperate in the trial.

Learned A.G.A. has opposed the prayer made by the applicant's counsel. He is allowed fifteen days' time to file objections.

Issue notice to respondent No.2.

List on 13.3.2023.

Without expressing any opinion on the merits of the case and considering the nature of accusation. the fact that from the statement of the injured Sehnaj Khan, it prima facie appears that the main allegation is on Salman for causing assault, the co accused have been granted interim protection by this court, no specific role has been assigned to the applicant, and the applicant having no criminal antecedents, the undertaking given on behalf of the applicant that he shall cooperate in the trial and gravity of offence, I am of the opinion that the applicant is entitled to be released on bail in this case in the light of judgment of Supreme Court in Sushila Aggarwal and others vs. State (NCT of Delhi) and another (2020)5 SCC 1, subject to his cooperation in the trial.

In view of the above as also keeping in view of the judgment in Sushila Aggarwal vs. State (NCT of Delhi) 2020 SCC OnLine 98, the accused applicant is directed to surrender before trial court if he is summoned to face trial for offence in question after filing of the charge sheet. The accused applicant shall be released on bail by the trial court on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of the trial Court, with the following conditions.

(i) *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 tamper with the evidence;*

(ii) *The applicant shall not leave India without the previous permission of the court;*

(iii) *The applicant shall not pressurize/ intimidate the prosecution witness;*

(iv) *The applicant shall appear before the trial court on each date fixed unless personal presence is exempted;*

(v) *In case of breach of any of the above conditions the court below shall have the liberty to cancel the bail;*

Any other reasonable restrictions/conditions which the trial court may deem fit and proper can be imposed.

It is made clear that the observations made in granting bail to the applicant shall not in any way affect the trial Judge in forming his independent opinion based on the testimony of the witnesses."

Learned counsel for the applicant submits that in compliance of order extracted above, the applicant has filed bonds and he has been enlarged on anticipatory bail.

Learned counsel for the applicant further submits that charge-sheet in the matter has been filed. The applicant has co-operated in the investigation and further undertakes to cooperate in the trial. He further submits that co-accused Gufran Ali and four others who were assigned the similar role have been granted anticipatory bail by this court vide order dated 31.1.2023 passed in Anticipatory Bail No.227 of 2023. Applicant has no criminal history.

Learned A.G.A. has opposed the bail application, however, could not dispute the fact that the applicant has cooperated in

the investigation. He further submits that charge-sheet in the matter has been filed.

On due consideration to the submissions advanced, perusal of the record, applicant has no criminal history, bail orders of aforesaid co-accused persons, he has cooperated in the investigation, undertaking that he shall cooperate in the trial, as also considering the dictum of Apex Court *in re: Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC online SC 98* and without expressing any opinion on the merit of the case, I am of the opinion that the interim protection granted earlier vide order dated 3.9.2024 is liable to be and is hereby made absolute.

The application is allowed accordingly.

Order Date :- 18.12.2024

Saurabh Yadav/-