

Court No. - 16

Case :- CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 60 of 2024

Applicant :- Rajesh Kumar Chaubey

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

Counsel for Applicant :- Naveen Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Karunesh Singh Pawar,J.

1.The applicant has moved the present application under Section 438 of Cr.P.C. praying for grant of anticipatory bail in case crime/F.I.R No.518/2024, under Sections 419, 420, 467, 468, 471, 504, 506 I.P.C., P.S. Kotwali Nagar, District Gonda.

2.Heard learned counsel for the applicant and learned A.G.A. for the State who has submitted that the investigation is pending.

3.This Court while giving interim protection has passed the following order on 30.9.2024:

"Heard learned counsel the applicant and learned A.G.A. for the State.

The present anticipatory bail application has been filed seeking anticipatory bail in case crime/F.I.R No.518/2024, under Sections 419, 420, 467, 468, 471, 504, 506 I.P.C., P.S. Kotwali Nagar, District Gonda.

Learned counsel for the applicant submits that for one offence, two separate F.I.R.s have been lodged by the complainant. Dispute is primarily civil in nature. Civil suit regarding the disputed property is pending adjudication before the competent court which has been filed by co-accused Krishna Kant Saxena. The name of co-accused Brijesh Jaiswal who is the main accused has been dropped by the Investigating Officer. Applicant has no criminal antecedent. Applicant undertakes to cooperate in the investigation. The offences are triable by magistrate. He submits that co-accused Ravi Kumar Chaubay has been enlarged on bail by this Court vide order dated 14.08.2024 passed in Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No.1840 of 2024. Applicant seeks parity with the bail order of aforesaid co-accused.

Learned counsel for the applicant undertakes that applicant will cooperate in the investigation.

Issue notice to respondent No. 2.

Learned Addl. Government Advocate prays for and is granted two weeks' time to file counter affidavit.

List on 05.11.2024.

Considering the above aspect of the matter, perusal of the record as well as the

fact that offences are triable by magistrate, prima facie dispute appears to be civil in nature, role of the applicant and also the fact that applicant is undertaking to cooperate in the investigation, bail order of co-accused Ravi Kumar Chaubey (supra) as also the judgment of Apex Court passed in Sushila Aggarwal and others versus State (NCT of Delhi) and another (2020)5 SCC 1, it would be appropriate to grant interim protection to the applicant.

Till the next date of listing, it is provided that in the event of arrest, the applicant shall be released on bail on his furnishing a personal bond and two sureties of the like amount to the satisfaction of the arresting officer/I.O./S.H.O. concerned.

The applicant shall cooperate in the investigation and shall report to the Investigating Officer within fifteen days and he will not influence the witness. The accused-applicant will remain present as and when the arresting officer/I.O./S.H.O. concerned call(s) for investigation/interrogation. The applicant shall not leave India without previous permission of the Court.

In case of default, it would be open for the investigating agency to move application for vacation of this interim protection."

4. Learned counsel for the applicant has submitted that in compliance of order extracted above, the applicant has filed bonds and he has been enlarged on anticipatory bail. It is submitted that the applicant undertakes to further cooperate in the investigation/trial.

The co-accused Ravi Kumar Chaubay has been enlarged on bail by this Court vide order dated 14.08.2024 passed in Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No.1840 of 2024. Applicant seeks parity with the bail order of aforesaid co-accused.

Learned A.G.A. while opposite the bail concedes that it is a case of parity.

5. Considering the interim protection granted by this court vide order extracted above which has not been misused by the applicant, undertaking that the applicant shall further cooperate in the investigation/trial, and without expressing any opinion on the merit of the case, I am of the opinion that the interim protection granted earlier is liable to be and is hereby made absolute.

6. The application is allowed accordingly.

Order Date :- 18.12.2024

kkb/