

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2345 of 2024

Applicant :- Prakash And Another

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

Counsel for Applicant :- Ram Naresh Singh Chauhan

Counsel for Opposite Party :- G.A.

Hon'ble Karunesh Singh Pawar,J.

The present bail application under Section 438 Cr.PC. has been filed seeking anticipatory bail in case crime/FIR No. 65/2022, under Sections 323/504/308 I.P.C., P.S. Achalganj, District Unnao.

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

Learned counsel for the applicant submits that general allegations have been levelled in the prosecution case of all three accused persons of inflicting injuries upon two injured. It is also submitted that during investigation, the applicant was not arrested. Charge sheet has been filed in the year 2022. He has cooperated in the investigation and further undertakes to cooperate in the trial.

It has been further submitted that co-accused Beche Lal has been granted anticipatory bail by this Court vide order dated 26.09.2024 passed in CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 2219 of 2024. Role assigned to the applicant is akin to that of co-accused Beche Lal.

Learned AGA has opposed the bail application, however, could not dispute the fact that role assigned to the applicant is similar to that of co-accused Beche Lal who has been granted

anticipatory bail.

Perused the record.

Perusal of the record shows that general allegations have been leveled on all three accused persons of inflicting injury upon the two injured persons. Although, the fracture has been found in the frontal bone of injured Naresh Kumar, rest of the injuries are simple in nature.

On due consideration to the judgment of the Supreme Court passed in the case of "***Mahdoo Bava v. CBI, 2023 SCC OnLine SC 299***" as well as considering the fact that co-accused Beche Lal has been granted bail; charge sheet in the matter has been filed in the year 2022; he has cooperated in the investigation and further undertakes to cooperate in the trial; the applicant is not a previous convict and having no criminal history, it would be expedient in the interest of justice that the liberty of the applicant may be protected in view of dictum of Apex Court in re: ***Sushila Aggarwal Vs. State (NCT of Delhi)- 2020 SCC online SC 98.***

In view of the above, since, charge-sheet in the matter has been filed, if the applicants ***Prakash*** and ***Ramu*** are summoned to face trial for offence in question, they shall be released on bail by the trial court on their furnishing personal bonds and two sureties of the like amount to the satisfaction of the trial court concerned 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.

In view of the aforesaid, the application is ***allowed***.

Order Date :- 18.12.2024

R.C.