Court No. - 70

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 8583 of 2020

Applicant :- Om Prakash Yadav And Another
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Akhilesh Kumar Yadav
Counsel for Opposite Party :- G.A.

Hon'ble Siddharth,J.

Heard learned counsel for the applicants and learned AGA for the State.

The instant anticipatory bail application has been filed on behalf of the applicants, **Om Prakash Yadav and Rama Shankar Yadav**, with a prayer to release them on bail in **Case Crime No. 12 of 2019, under Sections- 60, 64 of U.P. Excise Act, 420, 467, 468 IPC and 54/64 Copy Right Act, Police Station- Jhangahan, District- Gorakhpur,** during pendency of trial.

Offence under sections 60/64 of Excise Act is bailable and triable by Magistrate. False recovery has been alleged. The applicants have been falsely implicated in this case. They have definite apprehension that they may be arrested by the police any time.

Learned AGA has opposed the prayer for anticipatory bail of the applicants, but could not dispute the aforesaid facts.

Hence the applicant is directed to be enlarged on anticipatory bail as per the Constitution Bench judgment of the Apex Court in the case of ***Sushila Aggarwal vs. State (NCT of Delhi)- 2020 SCC Online SC 98 and order dated 22.05.2020 passed by this Court in Criminal Misc. Anticipatory Bail Application No.2609 of 2020***. The future contingencies regarding anticipatory bail being granted to applicants shall also be taken care of as per the aforesaid judgment of the Apex Court.

Without expressing any opinion on the merits of the case and considering the nature of accusations and their antecedents, the applicants are entitled to be released on anticipatory bail in this case.

Let the applicants involved in the aforesaid crime be

released on anticipatory bail on furnishing a personal bond with two sureties each in the like amount to the satisfaction of the trial court concerned with the following conditions:-

1. The applicants shall not leave India during the currency of trial without prior permission from the concerned trial Court.

2. The applicants shall surrender his passport, if any, to the concerned trial Court forthwith. Their passport will remain in custody of the concerned trial Court.

3. That the applicants 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 them from disclosing such facts to the Court or to any police officer;

4. The applicants shall file an undertaking to the effect that they shall not seek any adjournment on the dates fixed for evidence and the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law to ensure presence of the applicants.

5. In case, the applicants misuses the liberty of bail, the trial Court concerned may take appropriate action in accordance with law and judgment of Apex Court in the case of ***Sushila Aggarwal vs. State (NCT of Delhi)-2020 SCC Online SC 98***.

6. The applicants shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of their bail and proceed against them in accordance with law.

7. The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad.

8. The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from

the official website of High Court Allahabad and shall make a declaration of such verification in writing.

Order Date :- 3.12.2020
Ruchi Agrahari