Court No. - 70

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 8843 of 2020

Applicant :- Avesh Kumar Rai And 2 Others
Opposite Party :- State Of U.P. And 3 Others
Counsel for Applicant :- Chandra Kumar Rai
Counsel for Opposite Party :- G.A.

Hon'ble Siddharth,J.

Heard learned counsel for the applicants and learned AGA.

The instant Anticipatory Bail Application has been filed with a prayer to grant an anticipatory bail to the applicants, namely, Avesh Kumar Rai,Amit Kumar Rai and Ganga Rai, in Case Crime No. 323 of 2020, under Sections 419,420,467,468,471 I.P.C. , Police Station - Jiyanpur, District - Azamgarh.

Prior notice of this bail application was served in the office of Government Advocate and as per Chapter XVIII, Rule 18 of the Allahabad High Court Rules and as per direction dated 20.11.2020 of this Court in Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No. 8072 of 2020, Govind Mishra @ Chhotu Versus State of U.P., hence, this anticipatory bail application is being heard. Grant of further time to the learned A.G.A as per Section 438 (3) Cr.P.C. (U.P. Amendment) is not required.

The applicant no1 is said to be bonafide purchaser on the basis of fraudulent sale deed executed by Rajdev Yadav, who claimed himself as Ram Ashery the owner of the land.Learned counsel for the applicants has submitted that applicant nos. 2 and 3 are marginal witness of the sale deed. Applicants have been falsely implicated in this case when the vendor has not been implicated by the informant in the First Information Report.The civil suit is already pending. The applicants have no criminal history to their credit. Applicants have definite apprehension of their arrest by the police.

Learned AGA has opposed the prayer for anticipatory bail of the applicants.

Without expressing any opinion on the merits of the case and considering the nature of accusation and his antecedents, the applicants are entitled to be released on anticipatory bail in this case for the limited period considering the exception considered by the Hon'ble Supreme Court in the case of **Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC Online SC 98**.

In the event of arrest of the applicants shall be released on anticipatory bail till the submission of police report, if any, under section 173 (2) Cr.P.C. before the competent Court on furnishing a personal bond of Rs.50,000/- with two sureties each in the like amount to the satisfaction of the Station House Officer of the police station concerned with the following conditions:-

(i) The applicants shall make themselves available for interrogation by a police officer as and when required;

(ii) 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 from disclosing such facts to the Court or to any police office;

(iii) The applicants shall not leave India without the previous permission of the Court and if they have passport, the same shall be deposited by them before the S.S.P./S.P. concerned.

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

(v) 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.

In default of any of the conditions, the Investigating Officer is at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicant.

The Investigating Officer is directed to conclude

the investigation of the present case in accordance with law, expeditiously, independently without being prejudiced by any observations made by this Court while considering and deciding the present anticipatory bail application of the applicant.

The applicants are directed to produce a copy of this order downloaded from the official website of this Court before the S.S.P./S.P. concerned within ten days from today, who shall ensure the compliance of present order.

Order Date :- 9.12.2020

Atul kr. sri.