Court No. - 70

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 8875 of 2020

Applicant :- Sunil Kumar Prajapati
Opposite Party :- State of U.P.
Counsel for Applicant :- Kamlesh Kumar Tiwari
Counsel for Opposite Party :- G.A.

Hon'ble Siddharth,J.

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

The instant anticipatory bail application has been filed on behalf of the applicant, **Sunil Kumar Prajapati,** with a prayer to release him on bail in **Case Crime No. 1344 of 2020, under Section- 419, 420 IPC and Sections 60, 63, 72 Excise Act, Police Station- Shahpur, District- Gorakhpur,** during pendency of trial.

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.

Offence under section 60 of Excise Act is bailable and triable by Magistrate. False recovery has been alleged. The applicant has been falsely implicated in this case. He has no criminal history to his credit. The applicant has definite apprehension that he may be arrested by the police any time.

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

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 applicant 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 his antecedents, the applicant is entitled to be released on anticipatory bail in this case.

Let the applicant 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 applicant shall not leave India during the currency of trial without prior permission from the concerned trial Court.

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

3. That 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 to any police officer;

4. The applicant shall file an undertaking to the effect that he 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 applicant.

5. In case, the applicant 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 applicant 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 his bail and proceed against him 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 :- 9.12.2020
Ruchi Agrahari