

Court No. - 81

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S
438 CR.P.C. No. - 20138 of 2021

Applicant :- Mohammad Kaif

Opposite Party :- State Of U.P And Another

Counsel for Applicant :- Nabi Ullah

Counsel for Opposite Party :- G.A.

Hon'ble Raj Beer Singh,J.

Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

The present application has been moved seeking anticipatory bail in Case Crime no. 915/2019, under Sections 147, 148, 149, 188, 153A, 298, 304, 332, 353 I.P.C. and Section 7 of Criminal Law Amendment Act, Police Station Bhelupur, District Varanasi with the prayer that in the event of arrest, applicant may be released on bail.

It has been argued by the learned counsel for the applicant that applicant is innocent and he has an apprehension that he may be arrested in the above-mentioned case, whereas there is no credible evidence against him. It has further been submitted that applicant has no criminal antecedents and that no coercive process has been issued against the applicant so far. Learned counsel has submitted that applicant is not named in FIR and that the FIR was lodged against 16 named and some unknown persons alleging that despite proclamation under Section 144 Cr.P.C., accused persons have tried to incite religious sentiments by raising anti-national slogans. It was submitted that applicant has been falsely implicated in this case during investigation merely on the basis of suspicion and that no specific role has been assigned to the applicant. It was submitted that similarly placed co-accused Ashraf and Ashraf Ali Khan have already been granted anticipatory bail by co-ordinate Benches of this Court, copies of which are on record. It

was also submitted that applicant undertakes to co-operate during investigation and trial and he would appear as and when required by the investigating agency or Court. It has been stated that in case, the applicant is granted anticipatory bail, he shall not misuse the liberty of bail and will co-operate with the investigation and would obey all conditions of bail.

Learned A.G.A. has opposed the application for anticipatory bail.

It may be stated that in case of **Siddharam Satlingappa Mhetre v. State of Maharashtra**, (2011) 1 SCC 694, it has been held by Hon'ble Supreme Court that while deciding anticipatory bail, Court must consider nature and gravity of accusation, antecedent of accused, possibility of accused to flee from justice and that Court must evaluate entire available material against the accused carefully and that the exact role of the accused has also to be taken into consideration.

In the instant case, considering the settled principle of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion on merit of the case, a case for anticipatory bail is made out.

The anticipatory bail application is **allowed**.

In the event of arrest of the applicant- **Mohammad Kaif** involved in the aforesaid case crime shall be released on anticipatory bail on his 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 applicant shall make himself available for interrogation by a police officer as and when required;

(ii) 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/her/them from disclosing such facts to the Court or to any police officer;

(iii) the applicant would co-operate during investigation and trial and would not misuse the liberty of bail.

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

Order Date :- 8.2.2022

Anand