

Court No. - 84

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 4085 of 2022

Applicant :- Jitendra Nishad And Another

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Pramod Kumar Srivastava, Manav
Chaurasia

Counsel for Opposite Party :- G.A.

Hon'ble Neeraj Tiwari, J.

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

This anticipatory bail application (under section 438 Cr.P.C.) has been moved seeking bail in Case Crime No. 23 of 2022, under sections 419, 420, 467, 468, 406, 506 I.P.C., Police Station -Sinduriya, District- Maharajganj, during the pendency of investigation.

Learned counsel for applicants has produced certified copy of application under Section 156(3) Cr.P.C. (numbered as Misc. Case No. 522 of 2022), which is taken on record.

Learned counsel for the applicants submitted that complainant is the real sister of Cabinet Minister of Uttar Pradesh and her close aid, Mr. Satendra Chaudhary has borrowed Rs. 70,000/- from applicants. When applicants have demanded their money, Mr. Satendra Chaudhary has threatened them for dire consequences. Applicants have approached concerned police station for lodging of F.I.R., but under the influence of complainant, F.I.R. has not been lodged. Thereafter, applicants have no option but to move application under Section 156(3) Cr.P.C. (numbered as Misc. Case No. 522 of 2022) on 24.03.2022. It is further submitted that about knowing the application moved by the applicants, on the very same day, in the evening, present frivolous F.I.R. has been lodged against the applicants. Applicants are having no previous criminal history, therefore, they may be granted anticipatory bail.

Learned AGA has opposed the prayer for bail, but could not about the criminal history of applicants as well as date of application under Section 156(3) Cr.P.C.

Hence without expressing any opinion on the merits of the case and considering the nature of accusations and antecedents of applicants, they are 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***. 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.

In the event of arrest, the applicants shall be released on anticipatory bail. Let the applicants -**Jitendra Nishad & Harendra Nishad** involved in the aforesaid crime be released on anticipatory bail on furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the trial court concerned with the following conditions:-

(1) The applicants shall co-operate with the Investigating Officer during investigation and shall report to the Investigating Officer as and when required for the purpose of conducting investigation;

(2) 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; and

(3) The applicants shall not leave the country during the currency of trial without prior permission from the concerned trial Court.

(4) The applicants shall surrender their passport, if any, to the concerned Court forthwith. Their passport will remain in custody of the concerned Court.

(5) 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.

(6) In case, the applicants misuse the liberty of bail, the 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***.

(7) 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.

In default or misuse of any of the conditions, the Public Prosecutor/ Investigating Officer/ first informant-complainant is at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicants.

With the aforesaid observations/ directions, the application stands **disposed of**.

Order Date :- 23.5.2022

Sartaj