

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S
438 CR.P.C. No. - 267 of 2023

Applicant :- Ravi Agarwal

Opposite Party :- State Thru. C.B.I/A.C.B. Lko.

Counsel for Applicant :- Pranjal Krishna

Counsel for Opposite Party :- Anurag Kumar Singh

Hon'ble Subhash Vidyarthi,J.

1. Sri Pranjal Krishna, learned counsel for the applicant and Sri Dharmendra Pratap Singh, holding brief of Sri Anurag Kumar Singh, learned counsel for the CBI are present.

2. On 06.02.2023, after hearing learned counsel for the applicant and learned A.G.A. for the State this court had passed the following order:

"Heard Sri Pranjal Krishna, learned counsel for the applicant and Sri Anurag Kumar Singh, learned counsel for the CBI.

As per learned counsel for the applicant, the present applicant (Ravi Agarwal) is apprehending his arrest in Criminal Case No.34 of 2018, F.I.R. No. RC 006 2014 A0026, under Sections 120B, 201, 218, 380, 420, 467, 468 & 471 IPC and Sections 13(2) r/w 13(1) (c) & (d) of P.C. Act, Police Station - C.B.I./ACB, District - Lucknow.

Learned counsel for the applicant has submitted that for the issue in question relating to the period 2012-13, the FIR was lodged by the CBI wherein the present applicant was named, however, charge-sheet has been filed in the year 2017 and learned court below has taken cognizance on 02.01.2018. Undisputedly, the present applicant has cooperated in the investigation and has not misused the process of the law. Attention has been drawn towards Annexure No.7 of the application, which is an order dated 17.05.2018 passed by this Court in the petition bearing U/S 482/378/407 No.1064 of 2018 whereby this Court has granted interim protection to the applicant to the effect that no coercive action shall be taken against him in the case in question. Thereafter, this Court has passed order dated 26.07.2018 extending the interim protection till final disposal of the petition; meaning thereby, the interim order was made absolute.

Learned counsel for the applicant has drawn attention of this Court towards Annexure No.8 of the application, which is an order dated 29.11.2022 passed by this Court in Application U/S 482 No.1064 of 2018 disposing of such petition finally giving liberty to the applicant to appear before the learned trial court to apply his anticipatory/ regular bail and it has been directed that if such bail application is filed, the same shall be

considered and disposed of keeping in mind the facts and circumstances considered by this Court. Vide para-3 of the aforesaid order, this Court has considered that the petitioner (applicant hereto) has been cooperating in the trial proceedings. The applicant was appearing almost on all the dates after the order dated 22.02.2018 passed by this Court, whereby it was directed that no coercive action shall be taken against the applicant in the aforesaid case. This Court further considered the submission that no purpose would be served by taking the applicant into custody inasmuch as the charge sheet has been filed and now, the case is fixed for framing of the charges and the applicant has been cooperating throughout during the course of the investigation and subsequently, in trial proceedings.

Therefore, learned counsel for the applicant has submitted that while considering the anticipatory bail application of the present applicant, the aforesaid observation of this Court should have been considered by the learned trial court, however, when the anticipatory bail application was filed before the learned trial court, the learned trial court has not considered the aforesaid observation of this Court in its letter and spirit and has rejected the anticipatory bail application of the applicant in a mechanical manner. He has submitted that the present applicant is a law abiding citizen and has not flouted the process of law at any stage; whether at the stage of investigation or at the stage of trial and he undertakes that he shall cooperate in the proceedings of the trial and shall not misuse the liberty of bail, therefore, his liberty may be protected granting him anticipatory bail till conclusion of the trial proceedings.

Learned counsel for the applicant has also submitted that the co-accused, Jitendra Garg, has been granted anticipatory bail by this Court vide order dated 24.01.2023 passed in Criminal Misc. Anticipatory Bail Application (U/S 438 Cr.P.C.) No.162 of 2023, therefore, on the basis of principles of parity the present applicant may also be granted interim protection.

Sri Anurag Kumar Singh, learned counsel for the CBI, has opposed the aforesaid prayer of the learned counsel for the applicant and has requested that sometime may be given to file the counter affidavit.

Therefore, without entering into merits of the issue; considering the arguments of learned counsel for the parties; the fact that co-accused has been granted interim protection vide order dated 24.01.2023 and the role of the present applicant being similar to the co-accused (Jitender Garg) and the undertaking of the present applicant that he shall co-operate in the trial proceedings properly in the same manner as has cooperated in the investigation and shall not misuse the liberty of anticipatory bail as well as dictum of the Apex Court in re; Sushila Aggarwal vs. State (NCT of Delhi), 2020 SCC online SC 98, I find it appropriate that liberty of the present applicant be protected till conclusion of the trial.

Therefore, it is directed that in the event of arrest/ appearance, applicant (Ravi Agarwal) shall be released on anticipatory bail in the aforesaid case crime number till conclusion of the trial on his furnishing a personal bond

and two sureties of Rs.1,00,000/- each before trial court concerned with the following conditions:-

1. that the applicant shall make himself available for interrogation by a police officer as and when required;
2. 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 or tamper with the evidence;
3. that the applicant shall not leave India without the previous permission of the court;
4. that the applicant shall not pressurize/ intimidate the prosecution witness;
5. that the applicant shall appear before the trial court on each date fixed unless personal presence is exempted;
6. that in case of breach of any of the above conditions the court below shall have the liberty to cancel the bail.

Let the counter affidavit be filed within a period of four weeks. Rejoinder affidavit, if any, may be filed within a period of two weeks thereafter.

List and connect with Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No.242 of 2023.

Before parting with, the applicant is directed to cooperate in the trial proceedings."

3. Although counter and rejoinder affidavits have been filed in this case, nothing has come to light which may persuade this court to take a view, other than the view taken at the time of granting interim anticipatory bail to the applicant.

4. The learned A.G.A. did not point out any violation of the conditions of interim anticipatory bail committed by the applicant.

5. The learned counsel for the applicant has also submitted that bail bonds have also been furnished

6. In view of above, the interim order dated 06.02.2023 is made absolute and the anticipatory bail application is **allowed.**

(Subhash Vidyarthi, J.)

Order Date :- 31.7.2023/Preeti.