

Court No. - 15

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 160 of 2024

Applicant :- Dadhibal Tiwari

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home U.P.
Lko. And 2 Others

Counsel for Applicant :- Rakesh Pathak, Vijay Pathak

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Learned A.G.A. informs that he has procured complete instructions in the matter including up-to-date case diary and the investigation of the case is still pending.
2. Heard learned counsel for the applicant as well as learned A.G.A. for the State and perused the record.
3. The instant application has been moved by the applicant- **Dadhibal Tiwari**, in Case Crime No. 353 of 2022, under Sections 147, 148, 149, 307, 323, 504, 506 I.P.C. and Section 4/5 Explosive Act, 1884, Police Station Kotwali Ayodhya, District Ayodhya, with the prayer to enlarge him on anticipatory bail, as he is apprehending arrest in the above-mentioned case.
4. Learned counsel for the accused-applicant while pressing the anticipatory bail application submits that it is a case of false implication. Even if all the contents of the F.I.R. are believed as it is, only an apprehension and suspicion has been shown that the incident has been organized/planned by the applicant. However, the applicant has admittedly not been found on the spot and has not been seen by any alleged eye witness including the informant.
5. It is vehemently submitted that during the course of investigation the statement of Mahant of the temple, namely, Ram Sharan Das was recorded, wherein he has stated that in fact it was the informant himself who was planning to dispossess him (Mahant Ram Sharan Das).
6. It is also submitted that apart from suspicion and apprehension, there is nothing on record which may connect the applicant with the crime. He is ready to cooperate in the investigation and would remain present before the investigating officer as and when his presence would be required, moreover,

no injury of any kind has been sustained by anyone in the alleged incident.

7. It is next submitted that named accused persons of the crime, namely, Mohan Das and Vivek Das have been granted regular bail by a co-ordinate Benches of this Court, vide order dated 07.12.2022 and 19.12.2022 passed in Criminal Misc. Bail Application No. 14297 of 2022 and 14847 of 2022.

8. Learned A.G.A. on the other hand submits that having regard to the manner in which the offence has been committed, the applicant is not entitled for any protection.

9. Perusal of the record in the background of submissions made by learned counsel for the parties would reveal that though a suspicion has been shown in the F.I.R. that it is the applicant who has organized/planned the incident. However, no one has claimed to have seen him at the spot. Two accused persons of the crime, namely, Mohan Das and Vivek Das have been granted the facility of regular bail by a co-ordinate Benches of this Court. The investigating is still going on. The statement of Mahant Ram Sharan Das recorded during the course of investigation will also reflect that it is stated by him that in fact it was the informant himself who was making all out efforts to dispossess Mahant Ram Sharan Das from the temple. The applicant is not having any criminal antecedents.

10. Thus, having regard to all the facts and circumstances of the case and for the reasons given herein-before and keeping in view the law laid down by the Hon'ble Supreme Court in ***Siddharam Satlingappa Mhetre v. State of Maharashtra*** : (2011) 1 SCC 694, ***Sushila Aggarwal v. State (NCT of Delhi)*** (2020) 5 SCC 1 and in ***Nathu Singh Vs. State of U.P. and others***:(2021)6 SCC 64, protection from arrest till the submission of police report under Section 173 (2) Cr.P.C. may be granted to the applicant.

11. In result, the anticipatory bail application moved by the applicant- **Dadhibal Tiwari** is, hereby, **disposed of** with a direction that till the submission of police report under Section 173 (2) Cr.P.C., in the event of arrest of the applicant in the above-mentioned case, he shall be released forthwith on anticipatory bail on his furnishing a personal bond of Rs. 50,000/- and two sureties each in the like amount to the satisfaction of the Station House Officer of the Police Station concerned/ Investigating Officer subject to the following conditions:-

(1) The applicant shall make himself available for interrogation

or even for discovery of any fact by a police officer as and when required;

(2) 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 them from disclosing such facts to the Court or to any police officer;

(3) The applicant shall not leave the country concerned without the previous permission of the Court.

12. In case of default of any condition the investigating officer may approach this Court for cancellation/modification of this order.

13. It is clarified that all the observations contained in this order are only for disposal of this anticipatory bail application and shall not affect the trial proceedings in any manner.

Order Date :- 31.1.2024

Praveen