

Court No. - 15

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 3048 of 2023

Applicant :- Pawan Kumar Yadav

Opposite Party :- State Of U.P Thru. Prin. Secy. Home Civil
Secrt. Lko. And Another

Counsel for Applicant :- Pradeep Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Counter affidavit filed today is taken on record.
2. Heard learned counsel for the applicant as well as learned AGA for the State and perused the record.
3. The instant application has been moved by the applicant- **Pawan Kumar Yadav**, in Case Crime No. 23 of 2021, under Sections 452, 354 Kha, 504 I.P.C., Police Station- Hargaon, District- Sitapur, 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. The F.I.R. of this case has been lodged under the order passed by a Magistrate under Section 156 (3) Cr.P.C. and in the application which has been given to the Court of Magistrate under Section 156 (3) Cr.P.C., the allegations have been aggravated with the help of a legal professional.
5. It is further submitted that age of the victim is about 24 years and it is on account of previous enmity, the F.I.R. has been lodged. The applicant has however cooperated in the investigation and the charge sheet has now been submitted and he undertakes that he will cooperate in the trial also and would remain present before the Trial Court as and when his presence would be required.
6. It is also submitted on 22.12.2023, the applicant was granted interim protection and he has cooperated with the investigation and has adhered to all the conditions imposed on him and there is no apprehension that after being released on anticipatory bail, the applicant may flee from the course of law or may otherwise misuse the liberty.

7. Learned A.G.A. on the other hand opposes the prayer of anticipatory bail of the applicant.

8. Perusal of the record would reveal that the applicant was not arrested during the course of investigation and the charge sheet has now been filed. In absence of any specific allegation, it may be safely inferred that the applicant has cooperated in the investigation. The alleged offences against the applicant, wherein the charge sheet been submitted, are punishable with up to seven years of imprisonment. The applicant is not having any criminal history either and interim order in favour of him was granted on 22.12.2023 and nothing has been placed before this Court which may suggest that the condition under which liberty was protected has been violated in any way.

9. Thus, for the reasons given above and having regard to the law laid down by hon'ble Supreme Court in ***Siddharam Satlingappa Mhetre Vs State of Maharashtra and Ors.***, MANU/SC/1021/2010, ***Sushila Aggarwal and Ors. Vs. State (NCT of Delhi) and Ors.***, MANU/SC/0100/2020, ***Shri Gurbaksh Singh Sibbia and Ors. v. State of Punjab***, MANU/SC/0215/1980 : 1980 (2) SCC 565, and ***Nathu Singh Vs. State of U.P. and Others:(2021) 6 SCC 64***, the order dated 22.12.2023 is made absolute and the application moved on behalf of the applicant- **Pawan Kumar Yadav** under Section 438 Cr.P.C. is hereby **allowed** and it is provided that in the event of arrest of the applicant- **Pawan Kumar Yadav**, in the above-mentioned case under any process of the trial court or on his appearance/surrender before the trial court within 20 days from today i.e. till 21.03.2024, whichever is earlier, he shall be released forthwith on anticipatory bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the Station House Officer of the Police Station concerned/ Investigating Officer/ Trial Court subject to the following conditions:-

(i) The applicant shall make himself available for interrogation or even for discovery of any fact by a police officer as and when required, in case further investigation is directed;

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

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

10. Applicant shall remain present before the trial court as and

when his presence would be required and he would not take adjournment especially when the prosecution witnesses would be in attendance.

11. If in the opinion of the trial court default of any of the condition placed above 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 shall proceed against him in accordance with law.

12. 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.

13. If in the opinion of the trial Court, the personal bond and surety bonds filed by the applicant in compliance of earlier order dated 22.12.2023 appears to be sufficient to the Trial Court, the same may also be taken as personal bond and surety bonds under this order also.

Order Date :- 29.2.2024

Gurpreet Singh