

Neetu Agarwal And Another vs State Of U.P. And 2 Others on 1 April, 2025

Author: Vivek Varma

Bench: Vivek Varma

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:45055

Court No. - 69

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 724 of 2025

Applicant :- Neetu Agarwal And Another

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Gautam Baghel,Utkarsh Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. As per office report dated 27.03.2025, notice of the instant application has been served upon the opposite party no.2. However, no one appears on behalf of the opposite party no.2 nor any counter affidavit has been filed on his behalf.

2. Heard Sri Shivendra Rajwar, Advocate, holding brief of Sri Gautam Baghel, counsel for the applicants, Sri Neeraj Kumar Sharma, learned AGA for the State and perused the material available on record.

3. The applicants were granted interim anticipatory bail by the Co-ordinate Bench of this Court vide order dated 14.02.2025. The order is quoted herein below :

"1. Heard learned counsel for the applicants; learned A.G.A for the State and perused the record.

2. The instant Anticipatory Bail Application has been filed with a prayer to grant anticipatory bail to the applicants in Case Crime No.0085 of 2022, under Sections 341, 504, 506 I.P.C., P.S. Civil Lines, District Prayagraj, during pendency of trial.

3. Learned counsel for the applicant submits that the applicants are innocent and have been falsely implicated in the present case due to ulterior motive. The applicants have no concern with the alleged offence. The whole prosecution is false and malicious. The Investigating Officer has submitted charge sheet against the applicants. The applicants have no criminal history. Instant case is squarely covered under section 438 Cr.P.C. In case, the applicants are released on bail, they would not misuse the liberty of bail and would co-operate with the trial proceedings. Applicants have definite apprehension of their arrest by the police.

4. Issue notice to opposite party no. 2 returnable at an early date.

5. Learned A.G.A. prays for and is granted four weeks' time to file counter affidavit. Counsel for the applicants shall have two weeks thereafter to file rejoinder affidavit.

6. List this case immediately after expiry of the aforesaid period.

7. As an interim protection, till the next date of listing fixed for hearing on this application, the applicants are granted anticipatory bail in the aforesaid case. The applicants shall be released on interim anticipatory bail on furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicants shall make himself available on the date fixed by the court and shall co-operate with trial proceedings.

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

(iii) The applicants shall not leave India without the previous permission of the Court and if he has passport, the same shall be deposited by him before the S.S.P./S.P./C.P./A.C.P concerned.

(iv) The applicants shall not tamper with the evidence during the trial.

(v) The applicants shall not pressurized/intimidate the prosecution witness.

(vi) The applicants shall appear before the trial court on each date fixed unless personal presence is exempted."

4. Counsel for the applicants submits that the applicants have submitted bail bonds in terms of the interim order dated 14.02.2025 passed by this Court. The applicants are appearing before the concerned court on the dates fixed. Counsel for the applicants further contends that the maximum sentence provided for the alleged offences is upto seven years. He submits that in view of the judgment of Hon'ble Supreme Court in the case of Satender Kumar Antil Vs. Central Bureau of Investigation and another, (2021) 10 SCC 773, the applicants are entitled to be enlarged on anticipatory bail. The applicants have no criminal history. The applicants have apprehension of their arrest in the above mentioned case. In case, the applicants are released on anticipatory bail, they will not misuse the said liberty.

5. Learned A.G.A. for the State could not dispute the fact that the offences against the applicants are punishable upto seven years. He does not dispute the law laid down by Hon'ble Supreme Court in the case of Satender Kumar Antil (supra).

6. The Supreme Court in the case of Satender Kumar Antil (supra) has laid down the guidelines with regard to enlargement of an accused on bail. The guidelines provided category/type of offences. One of the category being Category-A are offences punishable with imprisonment of seven years or less. The Supreme Court in paragraph-3 of the aforesaid judgment has laid down the guidelines that after the filing of the charge sheet/cognizance ordinary the summons are required to be issued permitting the appearance of the accused through Lawyer and the bail applications of the accused persons on appearance are to be decided without the accused being taken into custody or by granting interim bail. A perusal of the aforesaid guidelines would demonstrate that the liberty of an individual has been recognized by the Hon'ble Supreme Court in the aforesaid judgment in term of Article 21 of the Constitution of India.

7. It is further to be noted that as per Section 41 of the Code of Criminal Procedure also during investigation the liberty of an individual is protected in respect of an offence where the maximum punishment provided is upto seven years.

8. It is not the case of the opposite party that applicants were arrested for the alleged offences during investigation and it is also not the case of the opposite party that the applicants had not co-operated in the investigation. Once no apprehension has been raised with regard to the conduct of the applicants and the applicants have been charge-sheeted and summoned in respect of offence in which punishment provided is upto seven years, then in view of the judgment of the Supreme Court in Satender Kumar Antil (supra), the liberty of the individual is required to be protected.

9. It is not shown by learned AGA that the nature and gravity of allegations are such that the same would disentitle the applicants for relief of anticipatory bail. No material, facts, circumstances or concern been shown by learned AGA for the State that the accused may tamper with the evidence or witnesses or accused is of such character that his mere presence at large would intimidate the witnesses or that accused will use his liberty to subvert justice or tamper with the evidence.

10. Learned A.G.A. has not placed any criminal antecedents of the applicants.

11. It is settled principle of law that the object of bail is to secure the attendance of the accused. No material particulars or circumstances suggestive of the applicant fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like have been shown by learned AGA for the State.

12. Having regard to the submissions made by counsel for the applicants, considering the nature of accusations, antecedents of the applicants, the fact that no violation of the conditions or misuse of liberty of interim anticipatory bail has been pointed out by the learned A.G.A., the fact that the offences against the applicants are punishable up to seven years and adhering to the guidelines provided in the judgment of the Supreme Court in Satender Kumar Antil (supra), without commenting on merits of the case, I am of the opinion that the applicants are entitled to be enlarged on anticipatory bail.

13. In the event of arrest, the applicants Neetu Agarwal and Rajendra Agarwal, involved in Case Crime No.0085 of 2022, under Sections 341, 504, 506 I.P.C., P.S. Civil Lines, District Prayagraj, be released on anticipatory bail during pendency of trial, on furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) the applicants shall make themselves available on each date fixed in the matter by the court concerned;

(ii) 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 from disclosing such facts to the Court;

(iii) the applicants shall not leave India without the previous permission of the Court and if they have passport the same shall be deposited by them before the concerned court.

14. In default of any of the conditions, the court concerned is at liberty to pass appropriate orders for enforcing and compelling the same.

15. The application stands disposed of.

Order Date :- 1.4.2025 Manish Kr