

Ram Kunware @ Ram Kumar vs State Of U.P. Thru. Prin. Secy. Home Lko. ... on 2 January, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:124

Court No. - 14

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 2573 of 2024

Applicant :- Ram Kunware @ Ram Kumar

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

Counsel for Applicant :- Manoj Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Heard Ms. Shivani Kapoor holding brief for Shri Manoj Kumar Singh, learned counsel for the applicant, as well as learned A.G.A. for the State and perused the record.
2. The present anticipatory bail application has been moved by the accused/applicant- Ram Kunware @ Ram Kumar in Case Crime / FIR No.0597/2017, under Sections 452, 376D and 506 IPC, Police Station Kotwali Nanpara, District Bahraich, with the prayer to enlarge him on anticipatory bail as he is apprehending arrest in the above-mentioned case.
3. Learned counsel for the accused-applicant while pressing the bail application submits that the FIR with regard tot he instant case has been lodged by moving an application under Section 156(3) Cr.P.C. and thus the allegations as stated in the application moved under Section 156(3) Cr.P.C. has been aggravated with the help of a a legal professional.

4. It is further submitted that after lodging of the FIR the applicant and another co-accused persons have approached this Court by filing Writ Petition No. 7832 of 2017 (M/B) and vide order dated 13.4.2017, the personal liberty of the applicant and other co-accused persons was protected and thereafter the applicant had cooperated in the investigation, however, the Investigating Officer without investigating the case in right perspective has filed charge sheet against the applicant also on the basis of insufficient material.

5. It is further submitted that since the applicant has cooperated in the investigation and is duty bound to cooperate in the trial also and has not been arrested by the Investigating Agency, he is apprehending that when he will appear before the trial court for the purpose of obtaining regular bail, the disposal of the same may take some time and having regard to the usual practice of the trial court, he will lodge in prison during the course of disposal of such bail application, which would not only jeopardize his personal liberty but would also bring a bad name to his otherwise good reputation. The applicant is not having any criminal history and there is no apprehension that after granting anticipatory bail he will misuse the same or would not appear before the trial court as and when his presence would be required.

6. It is further submitted that the instant FIR is nothing but the counter blast of the earlier FIR lodged by one of the co-accused, namely, Prabhawati, against the maternal uncle of the informant/ victim of the instant case with regard to the commission of rape by the accused persons of that FIR.

7. Learned AGA, on the other hand opposes the prayer of anticipatory bail of the applicant on the ground that specific allegations of commission of rape has been leveled against him.

8. Perusal of the record would reveal that the informant of this case has been personally served as is evident from the report available on record submitted by the S.H.O. of the Police Station Nanpara, Bahraich, where on the L.T.I. of the informant has been affixed along with her mobile number. Thus it appears that the opposite party no.2/ informant has been sufficiently served and she appears to have chosen not to participate in the matter.

9. Having heard learned counsel for the parties and having perused the record, it is evident that the instant case has been initiated by moving an application under Section 156(3) Cr.P.C. and a defence has been taken that the allegations levelled there in have been aggravated with the aid and advice of a legal professional. It is also the defence that earlier in time one of the co-accused of this crime had lodged an FIR against the maternal uncle of the informant/ victim of this case and thus the instant FIR is a counter blast of the same. It appears to be an admitted situation that after the liberty of the applicant and other co-accused persons was protected under the orders of the Division Bench of this Court they have cooperated in the investigation and thus the charge sheet has now been submitted which according to the applicant has been submitted on the basis of insufficient evidence/ material collected by the Investigating Officer and it is also highlighted that the investigation has not been made in right perspective. The applicant is not having any criminal antecedent. This Court by passing an interim order dated 19.11.2024 has also protected the personal liberty of the applicant till further orders of this Court subject to certain conditions/ restrictions. Nothing has been placed before this Court which may suggest that the applicant has violated any of the conditions under

which his personal liberty was protected of this Court by passing an order dated 19.11.2024

10. Thus, keeping in view all the facts and circumstances of this case and also keeping in view the law laid down by the Hon'ble Supreme Court in *Satender Kumar Antil Vs. Central Bureau of Investigation and others* : (2021) 10 SCC 773, *Siddharam Satlingappa Mhetre v. State of Maharashtra* (2011) 1 SCC 694 as well as in *Sushila Aggarwal v. State (NCT of Delhi)* (2020) 5 SCC 1, *Gurbaksh Singh Sibbia and Ors. v. State of Punjab* MANU/SC/0215/1980 : 1980 (2) SCC 565 and in *Nathu Singh Vs State of U.P. and Others*, 2021(6) SCC 64, MANU/SC/0360/2021, the applicant may be granted anticipatory bail during the course of trial also.

11. Thus, the instant anticipatory bail application moved on behalf of the applicant- Ram Kunware @ Ram Kumar is hereby allowed in terms that the applicant in the event of arrest or his surrender/appearance before the trial court within 15 days from today i.e. 16.01.2025, which ever is earlier, he shall be released forthwith on anticipatory bail on his furnishing a personal bond with two sureties in the like amount to the satisfaction of the Trial Court concerned, subject to the following conditions:-

1. The applicant if not arrested earlier, shall surrender before the trial court within 15 days from today i.e. on or before 16.01.2025 and will cooperate in the trial.
2. The applicant shall Cooperate in the investigation and will make himself available as and when required by the Investigating officer of the case, even for the recovery of any fact, if the case is directed to be further investigated.
3. The applicant shall not make any attempt to influence the prosecution witnesses and will also not commit any crime during his release on anticipatory bail.
4. The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence and especially when the prosecution witnesses are present in court.
5. The applicant 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.

12. If the applicant in pursuance of the interim order dated 19.11.2024 has already submitted his personal bond along with two sureties to the satisfaction of trial court concerned, the trial court in its discretion may not compel the applicant to file another personal bond and sureties bonds.

13. 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 her in accordance with law.

14. 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 proceedings before the trial court in any manner.

Order Date :- 2.1.2025 Muk