

Devendra Pratap Yadav vs State Of U.P. Thru. Prin. Secy. Home U.P. ... on 4 February, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:7373

Court No. - 15

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 2462 of 2024

Applicant :- Devendra Pratap Yadav

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

Counsel for Applicant :- Utkarsh Misra,Abhishek

Counsel for Opposite Party :- G.A.,Pankaj Kumar Shukla

Hon'ble Shree Prakash Singh,J.

1. From perusal of the order sheet, it transpires that the notice has been has been served to complainant/ informant/ opposite party no.2 but no one is present for the opposite party no.2.
2. Heard learned counsel for the applicant, learned AGA for the State and perused the material placed on record.
3. Instant application has been filed with the prayer to enlarge the accused-applicant on anticipatory bail in Case Crime No. 266 of 2022, under sections 147, 148, 149, 323, 308, 325, 506 and 120B of IPC P.S.- Kotwali Nagar District -Gonda.
4. From perusal of the order sheet, it appears that on 06.11.2024, the following order was passed:-

"Heard learned counsel for the applicant, learned A.G.A. for the State and perused

the record.

The instant bail application has been filed on behalf of the applicant with the prayer to release him on anticipatory bail in Case Crime No. 266 of 2022, under sections 147, 148, 149, 323, 308, 325, 506 and 120B of IPC P.S.- Kotwali Nagar District -Gonda.

The contention of learned counsel for the applicant is that the applicant is innocent and has falsely been implicated in the instant matter due to ulterior motive. He submits that the present applicant is named in the first information report due to anonymity as he is village Pradhan, but the statement of the injured is totally denying the story of prosecution. He added that the injured has stated that on the instance of the other persons of village, he has named the present applicant. Adding his argument, he submits that the C.D.R. is also evident that at the time of incident, the applicant was not at the place of occurrence. He also added that the being the village-Pradhan there was enmity in between the parties and because of those reasons, someone has told the name of the applicant and he was implicated in the first information report though, in fact no offence has been committed by him. He next submits that the applicant is always cooperating with the investigation proceedings and he is not absconding from any proceedings of the case. He also added that there is acute apprehension that police will arrest him without his no fault thus, submission is that the the applicant may be granted anticipatory bail.

On the other hand, learned A.G.A. appearing for the State has vehemently opposed the submissions aforesaid and submits that the applicant is named in the first information report and there is serious allegation against him and there are nineteen injuries found over the body of the injured as such, the applicant is not entitled for any relief.

Considering the aforesaid facts and circumstances of the case, till the next date of listing, the present applicant-Devendra Pratap Yadav shall be released forthwith in the aforesaid case crime (supra) on an interim anticipatory bail on his furnishing personal bond and two solvent sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

- (i) that the applicant shall make himself available for interrogation by a police officer as and when required;
- (ii) 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;

(iii) that the applicant shall not leave India without the previous permission of the court;

(iv) that in case chargesheet is submitted the applicant shall not tamper with the evidence during the trial;

(v) that the applicant shall not pressurize/ intimidate the prosecution witness;

(vi) that the applicant shall appear before the trial court on each date fixed unless personal presence is exempted;

(vii) that in case of breach of any of the above conditions the court concerned shall have the liberty to cancel the bail.

Let notice be issued to opposite party no. 2, returnable at an early date.

Steps be taken within a week.

If steps are taken, office shall proceed accordingly.

List/put up this matter in second week of December, 2024.

In the meantime, the State as well as opposite party no. 2 may file their counter affidavits. "

5. From perusal of the order dated 06.11.2024, it transpires that State counsel has failed to demonstrate that there is any adversarial fact which are pleaded in the bail application. This Court finds that the applicant was enlarged on an interim anticipatory bail after thorough considering the merits of the case. The learned counsel for the State has also failed to substantiate that the present applicant is not cooperating with the investigation proceedings.

6. In view of the aforesaid, the present anticipatory bail application is hereby allowed while extending anticipatory bail to the applicant, namely, Devendra Pratap Yadav till disposal of the trial subject to the following conditions:-

(i) that the applicant shall make himself available for interrogation by a police officer as and when required;

(ii) 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;

(iii) that the applicant shall not leave India without the previous permission of the court;

(iv) that the applicant shall appear before the trial court on each date fixed, unless personal presence is exempted; and

(v) that the applicant shall not pressurize/intimidate the prosecution witness.

7. In case of default, it would be open for the Investigating Agency to move application for vacation of this interim protection.

Order Date :- 4.2.2025 Mohd. Sharif