

Amit And 2 Others vs State Of U.P. on 2 January, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:766

Court No. - 33

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 7469 of 2024

Applicant :- Amit And 2 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Sudhir Kumar Singh

Counsel for Opposite Party :- Devottam Pandey,G.A.

Hon'ble Vikram D. Chauhan,J.

1. The present Anticipatory Bail Application has been filed with the prayer to grant anticipatory bail to the applicants - Amit, Harshit and Krishna Upadhyaya in Case Crime No.118 of 2022 under Sections 308 and 325 I.P.C., Police Station Maniar, District - Ballia.

2. Heard learned counsel for the applicants as well as learned AGA and perused the material available on record.

3. It is submitted by learned counsel for applicants that previously applicants have been enlarged on anticipatory bail by the court concerned on 25.07.2022 under Sections 147, 323, 504, 506 IPC, subsequently, after investigation charge-sheet has been submitted and against applicants summoning order has been issued on 23.03.2023 under Sections 308 and 325 I.P.C., which is punishable upto 7 years. Applicants are seeking anticipatory bail in new sections. 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.

4. Learned A.G.A. for the State could not dispute the fact that the offence under Sections 308 and 325 I.P.C., is punishable upto 7 years. He does not dispute the law laid down by Hon'ble Supreme

Court in the case of Satender Kumar Antil's (supra).

5. The Supreme Court in the case of Satender Kumar Antil Vs. Central Bureau of Investigation and another, (2021) 10 SCC 773 has laid down the guidelines with regard to enlargement of an accused on bail. The guidelines provided category/type of offences. Once of the category being Category-A are offences punishable with imprisonment of 7 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.

6. 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 7 years.

7. It is not the case of the opposite party that applicants were arrested for offence punishable under Sections 308 and 325 I.P.C. during investigation and it is also not the case of the opposite party for that the applicants have 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 7 years, then in view of the judgment of the Supreme Court in Satender Kumar Antil's (supra), the liberty of the individual is required to be protected.

8. 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 their mere presence at large would intimidate the witnesses or that accused will use their liberty to subvert justice or tamper with the evidence.

9. Learned Counsel for opposite parties has not placed any criminal antecedents of the applicants. The applicants have no criminal history.

10. 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 applicants 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.

11. In view of the above, the applicants are granted anticipatory bail in respect of offence described in para-1 of the present order. In the event of arrest of the applicants, they shall be released on anticipatory bail till conclusion of trial on their furnishing a personal bond of Rs.25,000/- 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 for interrogation by a police office as and when required.

(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 them from disclosing such facts to the Court or to any police office.

(iii) The applicants shall not leave India without the previous permission of the Court concerned.

(iv) In the event, the applicants change residential address, the applicants shall inform the court concerned/Investigating Officer about new residential address in writing.

(v) The applicants shall cooperate with the investigation and make themselves available for interrogation whenever required.

(vi) The applicants shall maintain law and order.

(vii) The applicants shall at the time of execution of the bond, furnish their address and mobile number to investigating officer, and the court concerned.

(viii) The applicants shall regularly remain present during the trial, and cooperate with the Court to complete the trial for the above offences.

(ix) Non presence of the applicants or their counsel before the court concerned shall be construed as violation of the present order and the court concerned would be at liberty to take coercive measures in accordance with law.

12. In case of default of any of the conditions, the Investigating Officer shall be at liberty to file appropriate application for cancellation of protection granted to the applicants.

13. With the directions made above, the anticipatory bail application stands allowed.

Order Date :- 2.1.2025 S.Prakash