

Shyamu Yadav @ Shyamu vs State Of U.P. Thru. Prin. Secy. Home ... on 3 March, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:12713

Court No. - 15

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 2656 of 2024

Applicant :- Shyamu Yadav @ Shyamu

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

Counsel for Applicant :- Vaibhav Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Shree Prakash Singh,J.

Heard learned counsel for the applicant, learned A.G.A. for the State and perused the material placed on record.

The present application under Section 438 Cr.PC./482 BNSS has been filed seeking anticipatory bail in case crime No. 372 of 2024, under Sections 419, 420, 467, 468 and 471 of IPC at Police Station Kotwali Nagar, District Ayodhya.

From perusal of the order sheet, it appears that on 2.12.2024, following order was passed wherein the present applicant has been granted interim anticipatory bail:-

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

Steps be taken within a week.

Office is directed to proceed accordingly.

Heard Sri Vaibhav Srivastava, learned counsel for the applicant and the learned AGA for the State.

This is an anticipatory bail application.

As per the learned counsel for the applicant the present applicant is apprehending his arrest in Case Crime No. 372 of 2024, under Sections 419, 420, 467, 468 and 471 of IPC at Police Station Kotwali Nagar, District Ayodhya.

As per the prosecution story, the present applicant is a marginal witness of the sale-deed in question. He is not the beneficiary of the transaction. For cancellation of the sale-deed, civil suit has been filed between the parties. The accused, Ram Singh who had executed the sale-deed in question has been granted interim protection by the Division Bench of this Court in Criminal Misc Writ Petition No. 7143 of 2024 vide order dated 01.10.2024 and the aforesaid petition is still pending consideration. The present applicant is having no prior criminal history of any kind whatsoever and he is having his permanent address, therefore, there is no flight risk and the applicant undertakes that he shall cooperate in the investigation and shall not misuse the liberty if provided by this Court.

Learned Additional Government Advocate has opposed the aforesaid prayer of learned counsel for the applicant but he could not controvert the aforesaid contentions of learned counsel for the present applicant.

Let the counter affidavit be filed within a period of four weeks. Rejoinder affidavit, if any, may be filed within one weeks thereafter.

List this case in the week commencing 20.01.2025.

Having considered the aforesaid submissions of learned counsel for the parties and having perused the material available on the record; the fact that the investigation is going on against the present applicant and the undertaking that she shall not misuse the interim protection of anticipatory bail and shall co-operate in the investigation properly, I find it appropriate that liberty of the present applicant may be protected till completion of the investigation or filing of the police report under Section 173 (2) Cr.P.C. in view of the dictum of Apex Court rendered in re: Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC online SC 98.

Therefore, in the meantime, it is directed that in the event of arrest the applicant (Shyamu Yadav @ Shyamu) shall be released on anticipatory bail in the aforesaid case crime number, till completion of investigation or filing of the police report under Section 173 (2) Cr.P.C., on his furnishing a personal bond in the like amount to the

satisfaction of the arresting authority/ court concerned and two sureties of Rs.50,000/- each with the following conditions:-

- (i) That the applicant shall make herself available for interrogation by the 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 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 prior permission of the court;
- (iv) that the applicant shall not pressurize/ intimidate the prosecution witnesses and shall not tamper with evidence during trial;
- (v) that the applicant shall appear before the Investigating Officer/ Trial Court on each date fixed unless personal presence is exempted;
- (vi) that in case of breach of any of the above conditions, the court below shall have the liberty to cancel the bail;
- (vii) that in default of any of the conditions mentioned above, the learned counsel for the State shall be at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicant.?

State counsel has failed to demonstrate from the counter affidavit that there is any adversarial fact which are pleaded in the bail application. This Court finds that the applicant was enlarged on anticipatory bail after thorough considering the merits of the case. The learned counsel for the State has also failed to submit any fact that the applicant is not cooperating with the investigation proceedings or otherwise any glaring fact which can adversely affect the merit of the case.

In view of the aforesaid, the present anticipatory bail application is hereby allowed while extending anticipatory bail to the applicant, namely, Shyamu Yadav @ Shyamu 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.

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

Order Date :- 3.3.2025 Shravan