

Brajendra Singh vs State Of U.P. Thru. Prin. Secy. Deptt. Of ... on 3 March, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:12716

Court No. - 15

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 2477 of 2024

Applicant :- Brajendra Singh

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

Counsel for Applicant :- Sameer Singh,Dr. Pooja Singh,Ravi Singh,Sakshi Singh

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. 134 of 2017, under sections 406, 420, 467, 468, 471 and 120-B of IPC P.S.- Naka District - Lucknow.

From perusal of the order sheet, it appears that on 5.11.2024, following order was passed wherein the present applicant has been granted interim anticipatory bail:-

?Heard Sri I.B. Singh, learned Senior Advocate, assisted by Sri Sameer Singh, counsels 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 Complaint Case No. 134 of 2017, under sections 406, 420, 467, 468, 471 and 120-B of IPC P.S.- Naka District - Lucknow.

It is contended by learned Senior counsel for the applicant that the opposite party no. 2 had instituted a Complaint Case No. 134 of 2017 before the Additional Chief Judicial Magistrate- IVth, Lucknow, while alleging that cheat & fraud has been committed. He submits that the applicant is a stranger so far as the society in question is concerned as he is no way concerned with the society. He also submits that the allegation in the complaint is that certain properties were got registered in the name of present applicant rather than in the name of the society though, the fact is otherwise that all the registered sale deeds are apparent that those were executed in the name of society itself. Further submitted that the registered sale deeds in between 1992 to 2001 are apparent that the same are in the name of society and in between 1992 to 2001, no complaint has ever been preferred before any court of law. He also submits that the complaint case was instituted in the year 2017 and summons were issued vide order dated 23.5.2017.

It has further been argued that the applicant has been shown to be the then Trustee of the Society/School whereas, the entire allegations are levelled against the co-accused person namely, Pooran Singh who died on 31.08.2015 and also submitted that even the statement of the complainant under section 200 and witnesses under section 202 of Cr.P.C. also do not properly corroborate the story narrated in the complaint. He submits that all the proceedings have been initiated behind the back of the applicant.

Further submission of learned counsel for the applicant is that the complaint instituted by the complainant is highly delayed and deliberately, no complaint was filed during the lifetime of Onkar Singh, the then president of the society. He submitted that the complainant is also not the member of general body of the society and he has no concern with any kind of functioning of School or Society and it seems that with a view to harass the applicant, the present complaint has been instituted.

Last but not the least, he added that the learned court below while taking the cognizance has ignored the material facts that the property in question was not purchased by the present applicant and allegation if any, is against the then Manager namely, late Pooran Singh who died on 31.08.2015 and therefore, no criminal proceedings could have been proceeded. Further submitted that the order of summons is apparent that there is non-application of mind by the Magistrate as he has proceeded without any cogent ground. He added that the applicant undertakes that he will cooperate with the trial proceedings of complaint and would never abscond from the same. Further submits that there is tremendous apprehension that police will arrest him and therefore, submission is that the applicant/accused may be enlarged on anticipatory bail.

On the other hand, learned A.G.A. appearing for the State has opposed the submissions aforesaid and submits that non-bailable-warrant has been issued against the applicant as the applicant is not cooperating with the trial proceedings therefore, he is not entitled to be released on anticipatory bail.

Considering the aforesaid facts and circumstances of the case, till the next date of listing, the present applicant- Brajendra Singh 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 first week of December, 2024.

In the meantime, opposite parties may file their counter affidavits.?

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, Brajendra Singh 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