

Rajiv Kumar vs State Of U.P. on 2 January, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:229

Court No. - 66

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 12202 of 2024

Applicant :- Rajiv Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Narendra Kumar Yadav, Parmeshwar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Sri Shatrughan Yadav, learned AGA, for the State, apprised the Court that he has received the instructions, therefore, the instant anticipatory bail application may be finally disposed off.
2. Heard Sri Parmeshwar Yadav, learned counsel for the applicant and Sri Shatrughan Yadav, learned AGA, for the State.
3. The instant anticipatory bail application has been filed on behalf of the applicant with the prayer to release him on anticipatory bail in FIR/Case Crime No.149 of 2023, under Sections 175,176 and 420 IPC and Section 15(3) Indian Medical Council Act, Police Station Bichhawa, District Mainpuri during pendency of the trial.
4. Learned counsel for the applicant submits that as per allegation applicant without proper registration was running a medical clinic but entire allegation levelled against him is totally false and actually he was only Pathologist in the alleged clinic.

5. He further submits that all the alleged offences are triable by Magistrate with maximum punishment of seven years, therefore, during investigation applicant was not arrested and after service of notice under Section 41A Cr.P.C. charge sheet has been filed against him.

6. He further submits that there is no allegation that applicant did not cooperate with the investigation.

7. He further submits that as charge sheet in the present matter has already been filed, therefore, there is no need of custodial interrogation.

8. He further submits that even co-accused Rinku, after considering entire facts of the case has been released on anticipatory bail and his bail order has been annexed at page 34 of the paper book.

9. He further submits that applicant is having apprehension, if he will appear before the court concerned then he will be sent to jail.

10. Further, applicant is not having any previous criminal history to his credit.

11. Per contra, learned AGA although opposed the prayer for bail but could not dispute the argument on facts advanced by the learned counsel for the applicant.

12. I have heard learned counsel for the parties and perused the record of the case.

13. Considering the arguments advanced by the learned counsel for the applicant and the fact that during investigation applicant has not been arrested and apprehension of arrest raised by applicant even after submission of charge sheet cannot be ruled out and he is not having any previous criminal history to his credit, in my view, applicant is entitled to be released on anticipatory bail till the conclusion of the trial.

14. Accordingly, without expressing any opinion on the merits of the case, the instant bail anticipatory application is allowed.

15. In the event of arrest of the applicant-Rajiv Kumar involved in the aforesaid case crime number, shall be released on bail till the conclusion of the trial case on furnishing a personal bond with two sureties each in the like amount to the satisfaction of the Presiding Officer/Court concerned with the conditions:-

(i) 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.

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

(iii) that the applicant shall not temper with the evidence during the trial;

(iv) that the applicants shall not pressurize/intimidate the prosecution witness;

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

16. In case of breach of any of the above conditions, the court concerned shall have the liberty to cancel the bail granted to the applicants.

17. It is made clear that the observations made in granting anticipatory bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

Order Date :- 2.1.2025 SKM