

Madhukar Mishra vs State Of U.P. Thru. Prin. Secy. Home Lko. ... on 28 February, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:12406

Court No. - 15

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 2599 of 2024

Applicant :- Madhukar Mishra

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

Counsel for Applicant :- Rakesh Kumar Nayak

Counsel for Opposite Party :- G.A.

Hon'ble Shree Prakash Singh,J.

From perusal of the order sheet, it transpires that the notice has been served to complainant/ informant/ opposite party no.2 but no one is present for the opposite party no.2. Heard learned counsel for the applicant, learned AGA for the State and perused the material placed on record. Instant application has been filed with the prayer to enlarge the accused-applicant on anticipatory bail in Case Crime No. 231 of 2023, under sections 406, 420, 467, 468, 471, 506 of the I.P.C., Police Station-Aliganj, District-Ambedkar Nagar. From perusal of the order sheet, it appears that on 23.01.2025, the following order was passed:-

"Supplementary Affidavit filed today on behalf of the applicant is taken on record.

Heard learned counsel for the applicant, learned AGA for the State and perused the record.

The instant anticipatory bail application has been filed on behalf of the applicant with the prayer to release him on anticipatory bail in Case Crime No. 231 of 2023, under sections 406, 420, 467, 468, 471, 506 of the I.P.C., Police Station-Aliganj, District-Ambedkar Nagar.

Contention of learned counsel for the applicant is that the applicant is innocent and has falsely been implicated. He added that the informant is a bank employee and he had taken an amount for full and final settlement of the loan account, which is running in the bank concerned and once, the informant strictly asked to return back the amount, the applicant had returned the same in his account and now, in the revenge, the informant has lodged the first information report, wherein the concocted story has been narrated that the amount has been taken so as to get appoint someone and allegedly, appointment letter is also shown to be issued by the applicant, which is false and baseless. He next added that the informant is not a lay man and no one could allure him so as to get appoint someone on his behest. He submits that the applicant is ready to cooperate in the investigation proceedings and further added that there is a case criminal history, which has been explained. He submits that the applicant is a law abiding citizen and there is an acute apprehension that the police will arrest the present applicant and as such, he may be enlarged on anticipatory bail.

On the other hand, learned AGA appearing for the State has opposed the contentions aforesaid and submits that there are serious allegations against the applicant and as such, he is not entitled for any relief.

Considering the aforesaid facts and circumstances of the case and after perusal of the record, this Court finds it a fit case for grant of interim anticipatory bail.

Accordingly, till the next date of listing, the present applicant-Madhukar Mishra, shall be released forthwith, in case of his arrest, in the aforesaid case crime (supra) on an interim anticipatory bail on his furnishing a 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 the steps are taken, the office shall proceed accordingly.

List/put up this matter in the Third Week of February,2025.

In the meantime, learned counsel for the State as well as opposite party no. 2 shall file their counter affidavits. "

From perusal of the order dated 23.01.2025, 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.

In view of the aforesaid, the present anticipatory bail application is hereby allowed while extending anticipatory bail to the applicant, namely, Madhukar Mishra 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 interim protection. Order Date :- 28.2.2025 Mohd. Sharif