

Arvind @ Arvind Kumar vs State Of U.P. Thru. Addl. Chief Secy. ... on 4 February, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:7397

Court No. - 15

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 2577 of 2024

Applicant :- Arvind @ Arvind Kumar

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Home Lko.

Counsel for Applicant :- Jay Krishna Shukla,Avaneesh Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Shree Prakash Singh,J.

1. Rejoinder affidavit filed today by learned counsel for the applicant is taken on record.
2. Heard learned counsel for the applicant, learned AGA for the State and perused the material placed on record.
3. Instant application has been filed with the prayer to enlarge the accused-applicant on anticipatory bail in Case Crime No. 0003 of 2023, under sections 419, 420, 467, 468 and 471 of IPC P.S.- S.I.T. District - Lucknow.
4. From perusal of the order sheet, it appears that on 19.11.2024, the following order was passed:-

"Heard learned counsel for the applicant, Sri K. Shahi, learned Additional Advocate General, assisted by Sri Neerav Kumar Pandey, counsels 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 Case Crime No. 0003 of 2023, under sections 419, 420, 467, 468 and 471 of IPC P.S.- S.I.T. District - Lucknow.

The contention of learned counsel for the applicant is that the applicant is innocent and has falsely been implicated in the instant matter due to ulterior motive. He submits that the matter pertains to the year 2000, wherein, a registered sale deed which is said to be a fake one was got executed in favour of one Santram and thereafter, under the impression that the land in question belongs to Santram, the applicant got executed an agreement to sale in his favour though, once this fact came into knowledge that the original registered sale deed which was executed in favour of Santram, is a fake one, the applicant asked to Santram to return his money and the same was withdrawn. He submits that it is not the case that after the sale deed was executed in favour of Santram and an agreement was also got executed in between the present applicant and Santram thus, there can be no criminal intent so as to commit any offence as is narrated in the FIR. He also submits that the applicant himself is a victim and he was never involved in committing any offence and there is no previous criminal history of the applicant. Further added that there is no complaint that applicant was not cooperating with the investigation proceedings. He also submits that the applicant has specifically undertaken that he will always remain present before the trial court on each and every date and he will never abscond from the trial proceedings and there is apprehension that police will arrest him thus, submission is that the applicant may be granted interim anticipatory bail.

Sri V.K. Shahi, learned Additional Advocate General appearing for the State has vehemently opposed the submissions aforesaid and submits that matter pertains to be investigated by S.I.T. and the applicant was found involved in committing offence and as such, he is not entitled for any relief.

Considering the submissions of counsels for the parties and after perusal of material placed on record, it transpires that the initially the alleged fake registered sale deed was executed in between Santram and other persons and prima facie, it seems that under impression that Santram is original tenure holder after the sale deed was executed in his favour, an agreement was entered into between the present applicant and Santram and subsequently, when this fact came into his knowledge that the 'bainama'/registered sale deed is fake, then the applicant had taken back the amount of consideration of the agreement to sale and thereafter, he never tried to get executed the sale deed in his favour. It is not disputed that the applicant has ever avoided with the investigation proceedings and he has no previous criminal history and he has undertaken that he will always cooperate with the trial proceedings.

In view of the aforesaid facts and circumstances of the case, till the next date of listing, the present applicant- Arvind @ Arvind Kumar 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.

List/put up this matter in the week commencing 06.01.2025.

In the meantime, the State counsel shall file counter affidavit. "

5. From perusal of the order dated 19.11.2024, 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.

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

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

Order Date :- 4.2.2025 Mohd. Sharif