

Kanhaiya Chauhan vs State Of U.P. And Another on 1 May, 2025

Author: Vivek Varma

Bench: Vivek Varma

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:70926

Court No. - 69

Case :- CRIMINAL MISC. ANTICIPATORY BAIL APPLICATION U/S 482 BNSS No. - 3162 of 2025

Applicant :- Kanhaiya Chauhan

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Kiran Yadav, Sanjay Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard learned counsel for the applicant and Sri Anupam Anand, learned Brief Holder for the State- opposite party, and perused the material available on record.
2. This application has been filed seeking anticipatory bail in Case Crime No. 441 of 2023, under Sections 406, 420, 506 I.P.C., Police Station Jahanaganj, District Azamgarh.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the instant case. The applicant had taken certain amount from the informant on loan. The applicant was repaying the loan installments to the informant. In this regard, reliance has been placed on the bank statement of the account of wife of the applicant and that of the applicant, whereby Rs.1,98,800/- has been repaid to the informant. It is next contended that the ingredients of the offence are not made out against the applicant. During the course of investigation, the applicant was granted benefit

of Section 41-A Cr.P.C. The investigation has been completed. The applicant had cooperated in the investigation. The applicant has been summoned by the court concerned. At this stage there is no credible evidence against the applicant to link with the offence. He further contends that the maximum sentence provided for the alleged offences is upto seven years. He submits that in view of the judgment of Hon'ble Supreme Court in the case of Satender Kumar Antil Vs. Central Bureau of Investigation and another, (2021) 10 SCC 773, the applicant is entitled to be enlarged on anticipatory bail. The applicant has no criminal antecedents. The applicant has apprehension of his arrest in the above mentioned case. In case the applicant is released on anticipatory bail, he will not misuse the said liberty.

4. Learned Brief Holder for the State A.G.A. opposed the prayer for anticipatory bail but could not satisfactorily dispute the aforesaid submissions from the record.

5. The Supreme Court in the case of Satender Kumar Antil (supra) has laid down the guidelines with regard to enlargement of an accused on bail. The guidelines provided category/type of offences. One of the categories being Category-A is offences punishable with imprisonment of seven years or less. The Supreme Court in paragraph-3 of the aforesaid judgment has laid down the guidelines that after filing of the charge sheet/cognizance ordinarily the summons are required to be issued permitting the appearance of the accused through lawyer and the bail applications of the accused persons on appearance are to be decided without the accused being taken into custody or by granting interim bail. A perusal of the aforesaid guidelines would demonstrate that the liberty of an individual has been recognized by the Hon'ble Supreme Court in the aforesaid judgment in terms of Article 21 of the Constitution of India.

6. It is further to be noted that as per Section 41 of the Code of Criminal Procedure also, during investigation the liberty of an individual is protected in respect of an offence where the maximum punishment provided is upto seven years.

7. It is not the case of the opposite party that the applicant was arrested for the alleged offences during investigation and it is also not the case of the opposite party that the applicant had not co-operated in the investigation. Once no apprehension has been raised with regard to the conduct of the applicant and the applicant has been charge-sheeted and summoned in respect of offence in which punishment provided is upto seven years, then in view of the judgment of the Supreme Court in Satender Kumar Antil (supra) the liberty of the individual is required to be protected.

8. It is not shown by learned AGA that the nature and gravity of allegations are such that the same would disentitle the applicant for relief of anticipatory bail. No material, facts, circumstances or concern has been shown by learned AGA for the State that the accused may tamper with the evidence or witnesses or accused is of such character that his mere presence at large would intimidate the witnesses or that accused will use his liberty to subvert justice or tamper with the evidence.

9. It is settled principle of law that the object of bail is to secure the attendance of the accused. No material particulars or circumstances suggestive of the applicant fleeing from justice or thwarting

the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like have been shown by learned AGA for the State.

10. Having regard to the submissions made by counsel for the applicant, considering the nature of accusations, antecedents of the applicant and the fact that the applicant had paid part portion of the disputed amount, at this stage there is no substantive evidence to link the applicant with the offence; the applicant had cooperated in the investigation, charge-sheet has been submitted and the applicant has been summoned by the concerned court, the offences against the applicant are punishable up to seven years and adhering to the guidelines provided in the judgment of the Supreme Court in Satender Kumar Antil (supra), without commenting on merits of the case, I am of the opinion that the applicant is entitled to be enlarged on anticipatory bail.

11. In the event of arrest, the applicant- Kanhaiya Chauhan, involved in the aforesaid case, be released on anticipatory bail during pendency of trial, on furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) the applicant shall make himself available on each date fixed in the matter by the court concerned;

(ii) 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;

(iii) the applicant shall not leave India without the previous permission of the Court and if he has passport the same shall be deposited by him before the concerned court.

12. In default of any of the conditions, the court concerned is at liberty to pass appropriate orders for enforcing and compelling the same.

13. The application stands disposed of.

Order Date :- 1.5.2025 SKT/-