

## Vipin Soni vs State Of U.P. And Another on 18 October, 2023

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2023:AHC:202305

Court No. - 47

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 8971 of 2023

Applicant :- Vipin Soni

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

Counsel for Applicant :- Niraj Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Manish Kumar Nigam,J.

Heard learned counsel for the applicant and learned A.G.A. for the State and perused the record.

This anticipatory bail application has been moved seeking bail by the applicant in F.I.R. dated 22.3.2023 arising out of Case Crime No.65 of 2023, under Sections 420, 467, 468, 471, 272, 273 IPC & u/s 59 of Food Safety and Standards Act, 2006 Police Station - Rath, District - Hamirpur, during the pendency of trial.

Contention of the learned counsel for the applicant is that applicant has been falsely implicated in the present case. It is further contended by learned counsel for the applicant that name of the applicant has only come in the statement of co-accused namely Laxman Rajpoot and Sandeep Srivas, who were arrested at the spot. Further, it is contended that applicant is not involved with the aforesaid offence and is businessman, doing the business of jewellery in the town. Neither the applicant was arrested at the spot nor any recovery has been made from the applicant. It has been further contended by learned counsel for the applicant that the premises at which the aforesaid offence was committed does not belong to the applicant. The case of the applicant is squarely covered under Section 438 Cr.P.C. and applicant has no criminal history to his credit. The applicant has apprehension of their arrest by the police any time. In case, applicant is granted anticipatory

bail, he shall not misuse the liberty of bail and would obey all conditions of bail.

Learned A.G.A. has opposed the prayer for grant of anticipatory bail and submits that name of the accused has come in the statement of co-accused. However, he could not deny the fact that no recovery was made from the possession of applicant and applicant has no criminal history to his credit.

Hence, without expressing any opinion on the merits of the case and considering the nature of accusations and applicant's antecedents the applicant is directed to be enlarged on anticipatory bail as per the Constitution Bench judgment of the Apex Court in the case of Sushila Aggarwal vs. State (NCT of Delhi)- 2020 SCC Online SC 98. The future contingencies regarding anticipatory bail being granted to applicant shall also be taken care of as per the aforesaid judgment of the Apex Court. In case the applicant misuse the aforesaid liberty it will be open for the Government Advocate/ informant/ complainant to file bail cancellation application before this Court for cancellation of this bail granted to the applicant.

In the event of arrest of the applicant - Vipin Soni involved in aforesaid case crime shall be released on anticipatory bail till the submission of police report if any under section 173 (2) Cr.P.C. before the competent Court on his furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the Station House Officer of the police station concerned with the following conditions:-

1. The applicant will cooperate with the investigation being carried out by the Investigating Officer.
2. 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 or to any police officer;
3. 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 S.S.P./S.P. concerned.

In default of any of the conditions, the Investigating Officer/Govt. Advocate is at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicant.

The Investigating Officer is directed to conclude the investigation, if pending, of the present case in accordance with law, expeditiously, independently without being prejudiced by any observations made by this Court while considering and deciding the present anticipatory bail application of the applicant.

The applicant is directed to produce a copy of this order of this Court before the S.S.P./S.P. concerned within ten days from today, who shall ensure the compliance of present order.

Order Date :- 18.10.2023 Rishabh [Manish Kumar Nigam, J.]