

Maksood Alam vs State Of U.P. on 7 December, 2022

Author: Suresh Kumar Gupta

Bench: Suresh Kumar Gupta

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 5364 of 2020

Applicant :- Maksood Alam

Opposite Party :- State of U.P.

Counsel for Applicant :- Vivek Chaubey, Rakesh Tripathi, Vimal Chandra

Counsel for Opposite Party :- G.A.

Hon'ble Suresh Kumar Gupta, J.

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

The instant anticipatory bail application has been filed on behalf of the applicant Maksood Alam with a prayer to release him on bail in Case Crime No. 0353 of 2020, under Sections 269, 270 IPC, Section 3 of Epidemic Diseases Act, 1897 and Sections 5, 8, of Environment Protection Act, 1986 read with Section 31 (1), 63 of Food Safety and Standard Act, 2006, Police Station-Shivpur, District-Varanasi.

It is contended on behalf of the applicant that he is innocent and has been falsely implicated in the present case. It is further submitted that vide order dated 01.09.2022, interim protection was granted to the applicant and learned A.G.A. was directed to file counter affidavit. However, till today no counter affidavit has been filed.

It is further submitted that without collecting cogent and credible evidence the Investigating Officer filed charge sheet against the applicant in a routine manner before the court.

Further submission is that the applicant shall fully cooperate with the investigation.

Hence, the applicant may be enlarged on anticipatory bail and he is ready to cooperate with the trial. If the applicant is granted anticipatory bail, he will never misuse the same. Learned counsel for the applicant has placed reliance on a judgement of the Supreme Court in the case of Sushila Aggarwal and others v. State (NCT of Delhi) and another, (2020) 5 SCC 1.

Learned A.G.A. vehemently opposed the prayer for bail.

It may be stated that in case of Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694, it has been held by Hon'ble Supreme Court that while deciding anticipatory bail, Court must consider nature and gravity of accusation, antecedent of accused, possibility of accused to flee from justice and that Court must evaluate entire available material against the accused carefully and that the exact role of the accused has also to be taken into consideration.

In the instant case, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion on merit of the case, a case for anticipatory bail is made out.

In the event of arrest the applicant is arrested, he shall be released on anticipatory bail in the aforesaid case till the conclusion of trial for the aforesaid offences on furnishing a personal bond with two sureties each in the like amount to the satisfaction of the trial court concerned with the following conditions:-

1. The applicant shall not leave India during the currency of trial without prior permission from the concerned trial Court.
2. The applicant shall surrender passports, if any, to the concerned trial Court forthwith. The passport will remain in custody of the concerned trial Court.
3. 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 from disclosing such facts to the Court or to any police officer;
4. The applicant shall file an undertaking to the effect that the applicant shall not seek any adjournment on the dates fixed for evidence and the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law to ensure presence of the applicant.

5. In case, the applicant misuses the liberty of bail, the Trial Court concerned may take appropriate action in accordance with law and judgment of Apex Court in the case of Sushila Aggarwal and others v. State (NCT of Delhi) and another, (2020) 5 SCC 1.

6. The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

The anticipatory bail application is allowed.

Order Date :- 7.12.2022 AKT