

[2022 LiveLaw \(SC\) 885](#)

IN THE SUPREME COURT OF INDIA
B.R. GAVAI; J., B.V. NAGARATHNA; J.
Special Leave to Appeal (Crl.) No(s). 7677/2022; 11-10-2022
TARUN AGGARWAL versus UNION OF INDIA & ORS.

Code of Criminal Procedure, 1973; Section 438 - Anticipatory Bail - Anticipatory bail granted to the accused only till framing of the charge - It is the impugned order which would reflect the mind of the judge as to what were the peculiar facts and circumstances which warranted limiting the anticipatory bail for a particular period. The perusal of the entire order would reveal that there is no discussion at all with regard to the same - Part of the order which restricts the anticipatory bail upto framing of charge is quashed and set aside.

(Arising out of impugned final judgment and order dated 25-05-2022 in CRMABA No. 1826/2022 passed by the High Court of Judicature at Allahabad)

For Petitioner(s) Mr. Brijender Chahar, Sr. Adv. Mr. Dushyant Ahlawat, Adv. Mr. Aman Gupta, AOR

For Respondent(s) Mr. Tushar Mehta, Ld. SG (NP) Mr. K.M. Nataraj, Ld. ASG Ms. V. Mohana, Sr. Adv. (NP) Mr. Sharath Nambiar, Adv. Mr. Vinayak Sharma, Adv. Mr. Rajat Nair, Adv. Mr. Rajan Kr. Chourasia, Adv. Mr. Nakul Chengappa K.K., Adv. State of U.P. Mr. Sarvesh Singh, AOR

ORDER

The petitioner has approached this Court being aggrieved by the observations made in the paragraph 24 of the impugned order vide which the learned single Judge has restricted the anticipatory bail granted to the petitioner only till framing of the charge.

We have heard Mr. Brijender Chahar, learned senior counsel appearing for the petitioner, Mr. Sarvesh Singh, learned counsel appearing for the State and Mr. K.M. Nataraj, learned Additional Solicitor General appearing for the respondents.

Mr. Nataraj, learned ASG submits that the 3-Judges' Bench of this Court in the case of **Nathu Singh vs. State of Uttar Pradesh & Ors.** reported in **2021 (6) SCC 64** has categorically held that though normally, the anticipatory bail should not be granted for a specific period, if the facts and circumstances are so made out, the Court can limit the tenure of the anticipatory bail.

He requests time to file counter affidavit so as to substantiate the reasons for limiting the period of anticipatory bail.

No doubt that Mr. Nataraj, learned ASG is justified in relying on the judgment of this Court wherein this Court has held that normally the anticipatory bail cannot be granted for a limited period, however, if the facts and circumstance so warrant, the court would be justified in limiting it for a particular period.

We are not inclined to grant time to file reply in as much as the counter affidavit cannot supplement the reasons given in the impugned order. It is the impugned order which would reflect the mind of the judge as to what were the peculiar facts and circumstances which warranted limiting the anticipatory bail for a particular period. The perusal of the entire order would reveal that there is no discussion at all with regard to the same.

In that view of the matter, we are inclined to allow the petition. Part of the impugned order which restricts the anticipatory bail upto framing of charge is quashed and set aside.

Mr. Nataraj, learned ASG submits that the petitioner is not cooperating with the trial. On the contrary Mr. Brijender Chahar, learned senior counsel submits that since 25.05.2022, on each and every day, when the matter is fixed, the petitioner is regularly attending the same.

If there is any violation of any of the conditions imposed by the High Court, the respondents are always at liberty to move an application for cancellation of bail before the appropriate court.

The special leave petition stands disposed of. Pending application(s), if any, shall also stand disposed of.

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