

**HIGH COURT OF JUDICATURE AT
ALLAHABAD**

A.F.R.

Court No. - 86

Case :- APPLICATION U/S 482 No. - 27731 of 2022

Applicant :- Bhagat Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Rakesh Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Karunesh Singh Pawar,J.

Heard learned counsel for petitioner as well as learned Additional Government Advocate for State Mr. M.P.S. Gaur.

The present 482 Cr.P.C. application has been filed to quash the impugned order dated 13.7.2022, passed by Civil Judge (Junior Division)/F.T.C.-I, Gautam Budh Nagar in case No.100 of 2020, arising out of case crime No.18/2020 under sections 323, 308, 452, 506 I.P.C., PS. Ecotech-Ist, district Gautam Budh Nagar (State vs. Bhagat Singh).

Learned counsel for applicant submits that the applicant is an accused in case crime No.18/2020 under sections 323, 308, 452, 506 I.P.C., PS. Ecotech-Ist, district Gautam Budh Nagar. He filed an anticipatory bail application No.2289 of 2020 before this Court, in which a Coordinate Bench of this court has, vide order dated 17.3.2020, directed release of the applicant on anticipatory bail, in the event of arrest, with certain conditions.

It is submitted that although the applicant was released on anticipatory bail by this Court, the trial court is insisting for a regular bail and therefore, he filed an application before the trial court to treat the anticipatory bail granted by this Court as a regular bail. However, the trial court vide order under challenge has rejected the prayer of the applicant and held that the anticipatory bail was granted till submission of charge sheet. It is submitted that the order of the trial court is perverse and contrary to the

order passed by this Court.

Learned A.G.A. has opposed the petition.

For ready reference, order dated 17.3.2020 (supra) is extracted below :

" Vakalatnama filed by Sri Pandey Balkrishna, Advocate on behalf of opposite party no.2 is taken on record.

Heard Sri Vinay Prakash Shukla and Sri Durga Prasad Tiwari, learned counsels for the applicant, Sri Pandey Balkrishna, learned counsel for opposite party no.2 as well as learned A.G.A. appearing for the State and perused the averments made in the first information report and rejection order.

It has been contended by learned counsel for the applicant that the applicant has been falsely implicated in this case by the first informant on account of personal grudge and enmity. In Para 15 of the affidavit, it is stated that the wife of applicant's younger brother had an affair with the brother of first informant and had solemnized second marriage with him. Thereafter, she was claiming her share in the property of her husband which is the bone of contention between the parties. Learned counsel for the applicant states that according to F.I.R. four persons are stated to have assaulted the injured by lathi and danda, however, the injured sustained three local injuries on the face which was subjected to X-ray. Prima facie, offence under Section 308 I.P.C. is not made out against the applicant. The applicant is ready to cooperate with the investigation. The matter needs deeper and fairer investigation before any arrest should be given effect to. Therefore, the applicant, having no criminal antecedents to his credit, may be enlarged on anticipatory bail.

Per contra, learned A.G.A. as well as learned counsel for the informant have vehemently opposed the prayer for bail and submitted that the applicant and other accused had badly assaulted an aged man of 80 years old who had sustained some fracture on his face, however, could not place any supplementary report or document to show that there was any likelihood of the death of the injured. He has also not disputed the averments made in Para 15 of the affidavit. Learned A.G.A. has also borrowed the arguments made by learned counsel for the informant.

Be that as it may, without expressing any opinion on the merits of the case, considering the nature of accusation and the fact that he has no criminal antecedents, the applicant is entitled to be released on anticipatory bail in this case.

In the event of arrest of the applicant- Bhagat Singh involved in Case Crime No. 0018 of 2020, under Sections 323, 452, 308, 506 I.P.C., Police Station- Eco Tech-1st, District- Gautam Budh Nagar, he shall be released on anticipatory bail 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) that the applicant shall make himself available for interrogation by a police officer as and when required;
- 2) 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;
- 3) that the applicant shall not leave India without the previous permission of the court;
- 4) that in default of any of the conditions mentioned above, the investigating

officer shall be at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicant;

5) that the investigating officer is directed to conclude the investigation in the present case in accordance with law expeditiously, preferably, within a period of four months from the date of production of a certified copy of this order independently without being prejudiced by any observation made by this court while considering or deciding the present bail application of the applicant;

6) that the applicant is directed to produce certified copy of this order before the SSP/SP concerned forthwith, who shall ensure the compliance of the present order;

7) that in case charge-sheet is submitted the applicant shall not tamper with the evidence during the trial;

8) that the applicant shall not pressurize/ intimidate the prosecution witness;

9) that the applicant shall appear before the trial court on each date fixed unless personal presence is exempted;

10) that in case of breach of any of the above conditions the court below shall have the liberty to cancel the bail;

It is made clear that if the charge-sheet is submitted and cognizance is taken and matter is committed to the Court of Sessions, as the case may be, the trial court shall decide the trial preferably within a period of one year from the cognizance/committal of the case to the Court of Sessions.

In view of aforesaid, the present Criminal Misc. Anticipatory Bail Application is, accordingly, allowed."

A perusal of condition No.2 of the bail order depicts that a condition has been imposed on the applicant that he 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. Further, as per condition No.8, the applicant has been directed not to pressurise/ intimidate the prosecution witness. Vide condition No.9, the applicant has been directed to appear before the trial court on each date fixed unless personal presence is exempted. Lastly, the trial court has been given liberty to cancel bail in case of breach of any of nine conditions mentioned in the bail order.

In view of the categorical conditions provided while granting anticipatory bail to the applicant, it is explicitly clear that the anticipatory bail granted by this Court vide aforesaid order extends till conclusion of the trial. Therefore, the impugned order rejecting the application of the accused vide order under challenge without even giving any reason is perverse and liable to be set aside.

Even otherwise, law in this regard is settled. Supreme

Court in Sushila Aggarwal and others vs. State (NCT of Delhi) and others (2020)5 SCC 1 has held that the anticipatory bail order can continue till the end of the trial, unless there are some special or peculiar features necessitating the court to limit the tenure of anticipatory bail. Relevant para 91.2 is extracted below :

"91.2 : As regards the second question referred to this court, it is held that the life or duration of an anticipatory bail order does not end normally at the time and stage when the accused is summoned by the court, or when charges are framed, but can continue till the end of the trial. Again, if there are any special or peculiar features necessitating the court to limit the tenure of anticipatory bail, it is open for it to do so."

In view of the above, the impugned order dated 13.7.2022 (supra) is set aside. The matter is remanded back to the court below to pass a fresh order in the light of the observation made above and the law settled by the Supreme Court in the case of Sushila Aggarwal's case (supra).

The petition is disposed of.

Order Date :- 29.11.2022

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