

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 58263 of 2019

Applicant :- Jhinnu

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Dhirendra Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. None is present on behalf of the applicant. Sri R.P. Patel, learned A.G.A. for the State is present. In the circumstances, I myself have perused the record.
3. The instant anticipatory bail application was filed in the year 2019.
4. It is observed by this Court that advocates are not appearing in majority of listed cases that too on multiple dates. Non-appearance of the counsel for the applicant amounts to professional misconduct. It also tantamount to bench hunting or forum shopping.
5. Mere pendency of the bail application cannot accrue any right in favour of the applicant. It cannot be allowed to swing years together in the cloak of pendency. The applicant cannot be permitted to dilute the stream of justice by repeatedly remaining absent from judicial proceedings without any reasonable explanation. Absence of any reason for non-appearance is blatant abuse of process of law, even though the order is available and accessible to all on the website of the High Court.
6. Sub-Section 5 of Section 438 Cr.P.C. [Uttar Pradesh Act 4 of 2019, s. 2 (w.e.f. 01.06.2019)] says that the anticipatory bail application be finally disposed of within thirty days of the date of such application. The Apex Court in para-73(k) of ***Satender Kumar Antil vs. Central Bureau of Investigation and another***, reported in ***2022 SCC Online SC 825*** has held that the application for anticipatory bail are expected to be disposed of within a period of six weeks.

7. At the time of framing of Section 438 Cr.P.C., the legislature has provided a limitation period of 30 days for disposal of anticipatory bail application. The said intention is just to avoid misuse of pendency of anticipatory bail application.

8. It is also observed that the applicant may be taking undue advantage of the pendency of the instant application by not participating in the investigation.

9. The Apex Court in *Ishwarlal Mali Rathod v. Gopal, (2021) 12 SCC 612* has categorically held that courts shall not grant the adjournments in routine manner and mechanically and shall not be a party to cause for delay in dispensing the justice.

10. As per the report of the C.J.M. concerned dated 15.2.2024, the trial has been decided on 13.4.2022, as such, the application has been rendered infructuous.

11. In view of the statement so made, the present anticipatory bail application is dismissed as infructuous.

12. Interim protection granted, if any, stands vacated.

13. However, it is provided that the applicant is at liberty to move regular application before the court concerned, if so required.

Order Date :- 20.2.2024

Shalini

(Justice Krishan Pahal)