

Court No. - 87

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 11900 of 2022

Applicant :- Swami Chinmiyanand Saraswati Pupil

Opposite Party :- State Of U.P. And Another

Counsel for Applicant :- Abhinav Gaur,Ankit Shukla,Chandra Prakash
Pandey,Ramanuj Tiwari,Sr. Advocate

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh,J.

1. Heard Sri Anoop Trivedi, learned Senior Advocate, assisted by Sri Chandra Prakash Pandey, learned counsel for the accused-applicant as well as S/Sri Manish Goyal and Mahesh Chandra Chaturvedi, learned Additional Advocate Generals, assisted by Sri A.K. Sand, learned AGA and Sri Anurag Kumar Pandey, learned counsel for the complainant.

2. The present bail application under Section 438 Cr.P.C. has been filed seeking anticipatory bail in Case Crime No.1423 of 2011, under Sections 376 and 506 I.P.C. Police Station Kotwali, District Shahjahanpur.

3. This Court vide fairly long judgement and order dated 19.12.2022 has granted interim protection to the accused-applicant.

4. On notice, Vakalatnama and counter affidavit have been tendered today in the Court on behalf of the complainant by Sri Anurag Kumar Pandey, which are taken on record. The relevant averments made in the counter affidavit tendered today in the court on behalf of the complainant would read as under:-

"2. That the deponent is the first antiformant in Case Crime No.1423 of 2011 lodged at Police Station Kotwali, District Shahjahanpur. It is pertinent to mention here that the deponent had preferred a letter to the Hon'ble Chief Minster, Government of Utatr Pradesh upon which a

direction was issued and the instant criminal prosecution was lodged.

3. That the Investigating Officer after conclusion of the investigation, has filed charge sheet under Section 376 and 506 IPC.

4. That the learned Magistrate has proceeded to take cognisance and summoned the applicant in the present case.

5. That the applicant of the present case proceeded to prefer a criminal Misc. Application under Section 482 Cr.P.C. before this Hon'ble Court assailing the summoning and cognizance order taken upon the charge sheet filed by Investigating Officer of the present case.

6. That this Hon'ble Court had granted interim order to the applicant in the present case and in the meantime, the State Government had taken a decision for withdrawal of the instant prosecution and thus, the applicant had withdrawn the above-mentioned criminal misc. application under Section 482 Cr.P.C.

7. That in pursuance of the decision of the State Government for withdrawal of the instant criminal prosecution, the Public prosecutor had filed an application under Section 321 of Cr.P.C. for withdrawal of the case, but the same was rejected by the learned trial court in larger public interest and secure the ends of the justice.

8. That the deponent has no objection for withdrawal of the instant criminal prosecution and the deponent, the deponent has no interest in further prosecuting the aforesaid case.

9. That the deponent has no objection whatsoever if the instant criminal misc. Anticipatory bail application is allowed and the application is enlarged on anticipatory bail.”

5. S/Sri Manish Goyal and Mahesh Chndra Chaturvedi, learned Additional Advocate Generals, assisted by Sri A.K. Sand, learned AGA have submitted that the State itself has taken a decision to withdraw from prosecution and has granted permission to the Public Prosecutor to move an application under Section 321 Cr.P.C. and, therefore, the State is not opposing to grant the anticipatory bail to the accused-applicant.

6. Considering the stand of the complainant and the State, this Court finds it appropriate that the interim order dated 19.12.2022 be confirmed and thus, the accused-applicant is admitted on anticipatory bail. Accused-applicant is directed to appear before the trial court concerned within one week from today and submit a

personal bond and two sureties each of the like amount to the satisfaction of the court concerned, if he has already not submitted in pursuance to the order dated 19.12.2022, and the concerned trial court shall release the accused-applicant on anticipatory bail application with any other conditions as it may deem fit in the facts and circumstances of the case.

7. With the above observation/direction, the anticipatory bail application is ***disposed of***.

Order Date :- 6.2.2023

Rao/-