

Court No. - 80

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10053 of 2022

Applicant :- Digvijay Chaube

Opposite Party :- State of U.P.

Counsel for Applicant :- R.B. Singh

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Chandra Sharma,J.

Supplementary affidavit filed by learned counsel for the applicant today is taken on record.

Heard learned counsel for the applicant as well as learned AGA for the State and perused the material placed on record.

This anticipatory bail application (under section 438 Cr.P.C.) has been moved seeking bail in Case Crime No.237 of 2022, under sections 153A, 295A 505(2) I.P.C., Police Station Bhelupur, District Varanasi, during the pendency of investigation.

Facts in brief are that an F.I.R. was lodged against this applicant for inciting the public to demolish the Gyanwapi Masjid.

It is submitted by learned counsel for the applicant that in this case nothing was done by this applicant but on account of political rivalry this F.I.R. was lodged against Arun Pathak who is President of Vishwa Hindu Sena. This applicant as not named in the F.I.R. but during investigation his name was brought into light though there is no any evidence to show the complicity of this applicant. It is further submitted that criminal history as shown against the applicant has been explained through supplementary affidavit. Lastly, it is submitted that the applicant is under apprehension of imminent arrest. In case, the applicant is released on bail, he would not misuse the liberty of bail and would cooperate with the investigation.

Learned A.G.A. has opposed the prayer for anticipatory bail.

Considering the facts and circumstances of the case, submissions made by learned counsel for the applicant as well as learned A.G.A., the applicant is entitled to be released on anticipatory bail in this case for the limited period considering the exception considered by the Hon'ble Supreme Court in the case of *Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC Online SC 98*.

In the event of arrest of the applicant- **Digvijay Chaube**, shall be released on anticipatory bail till the submission of police report, if any, under section 173 (2) Cr.P.C., on furnishing a personal bond of Rs. 25,000/- 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:-

(i) The applicant shall make himself available for interrogation by a police office as and when required;

(ii) 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 office;

(iii) The applicant shall not leave India without the previous permission of the Court and if he has passport, the same shall be deposited by him before the S.S.P./S.P. concerned.

In default of any of the conditions, the Investigating Officer is at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicant.

Order Date :- 4.1.2023

Ashok Gupta