

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 1861 of 2023

Applicant :- Syed Ishrat Hussain Jafri

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home, Civil
Sectt. Lko.

Counsel for Applicant :- Mohd. Yasir Abbasi, Manish Kumar
Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri S.C. Mishra, Senior Advocate assisted by Dr. Faooq Khan and Sri Manish Kumar Tripathi, Advocates, learned counsel for the applicants and Sri Jayant Singh Tomar, the learned A.G.A-I for the State and perused the records.

2. The instant application has been filed seeking anticipatory bail for the applicant in Sessions Case Crime No. 119/2023, under sections 409, 420, 467, 468, 471, 120-B I.P.C., PS-Hazratganj, District Lucknow.

3. The aforesaid case has been registered on the basis of an F.I.R lodged on 30.07.2023, against 18 persons, including the applicant, who is a member of Oregon Educational Society and Hygia Group, and some unknown persons, alleging that embezzlement of amount meant for being distributed amongst students as post matriculation scholarship.

4. On the same allegation, the Directorate of Enforcement had registered ECIR/ALSZO/02/2023, under section 3 and 4 of Prevention of Money Laundering Act, 2002, Police Station Directorate of Enforcement. Allahabad Sub-Zonal Office, Allahabad and the applicant has been granted interim anticipatory bail in the aforesaid case by means of an order dated 30.05.2023 passed by this court in Criminal Misc. Anticipatory Bail Application No. 1312 of 2023. The aforesaid order still continues to be enforce.

5. It is recorded in the order dated 30.05.2023 that the applicant is suffering from serious ailments, both his kidneys have been removed and he has undergone a kidney transplant. The applicant has also under gone-brain surgery. He has suffere from Type 2 diabetes, poly-cystic liver deceases, poly-cystic kidney deceases etc. This court had directed, the Director,

S.G.P.G.I to constitute a Board constituting a suitable experts of the relevant fields as per the medical papers submitted by the applicant and get him examined and submit a report regarding his medical condition.

6. The summary of report submitted by the Director, S.G.P.G.I, in furtherance of the aforesaid order dated 30.05.2023 has been annexed as Annexure No. 7 to the affidavit filed in support of the anticipatory bail application and the Medical Board has found that the applicant is post retrieval post-renal transplant patient suffering from autosomal dominant polycystic kidney disease (ADKPD) that required bilateral nephrectomy. Since his renal transplant in 2015, he had a stable renal graft function. He takes multiple immunosuppressive medicines to maintain renal graft. He has a grossly enlarged liver with multiple cysts (due to his underlying disease of ADKPD) that produces recurrent abdominal pain. He also has a poorly controlled diabetes mellitus despite insulin injections. For adequate control of blood sugars, he requires diet control, exercise and close observation of his blood sugars. His recent report of elevated creatinine level of 1.55 mg/dl requires further evaluation of renal graft functions. Like every renal transplant patient, he needs close observation of renal graft function and he must follow lifestyle measures like social distancing, use of mask, maintenance of hygiene etc to prevent community acquired and opportunistic infections.

7. The applicant had filed an application for grant of anticipatory bail before the Session Court and by means of an order dated 14.07.2023, the Session Judge, Lucknow had granted interim anticipatory bail to the applicant after recording the submissions regarding ailments of the applicant and the report dated 26.06.2023 submitted by the Medical Board of S.G.P.G.I. in furtherance of the order passed by the court. However, the applicant's anticipatory bail application has been rejected by the Session Court by means of an order dated 05.08.2023 for the reasons that the applicant is a named accused person and it is alleged that he is involved in embezzlement of amount meant for being distributed amongst students as post matriculation scholarship, which offence is of a serious nature and that the investigation is still going on. While rejecting the applicant's anticipatory bail, the Session Court has not assigned any reason for taking a view other than the view taken by himself while passing the interim order dated 14.07.2023.

8. This Court had passed an order on 23.08.2023 granting interim anticipatory bail to the applicant.

9. The State has filed a counter affidavit wherein the facts stated

regarding medical condition of the applicant has not been disputed.

10. The applicant has filed a rejoinder affidavit in response to the averments made in the counter affidavit annexing some more documents regarding his medical condition.

11. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the medical condition of the applicant has not been disputed as it has been certified by panel of expert doctors of SGPGI; that no violation of condition of interim anticipatory bail granted to the applicant has been pointed out in the counter affidavit, I am of the view that the interim order dated 23.08.2023 deserves to be made absolute.

12. In view of the aforesaid circumstances, the interim order dated 23.08.2023 is hereby made absolute and the application is **allowed** in terms of the aforesaid order.

13. The applicant shall furnish bail bonds in compliance of the aforesaid order within a period of two weeks from today.

Order Date :- 27.9.2023

Pradeep/-