

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2585 of 2023

Applicant :- Manish Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Saqib Meezan, Salman Ahmad

Counsel for Opposite Party :- G.A., Ashish Kumar Dubey, Rajesh Chandra Dwivedi, Suresh Singh, Vinay Kumar Agrahari

Hon'ble Nalin Kumar Srivastava, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record. None appears for the informant, even in the revised call.
2. This application has been moved on behalf of the applicant Manish Kumar in Case Crime No. 305 of 2022, under Sections 419, 420, 467, 468, 504, 506 I.P.C., Police Station- Sipri Bazar, District- Jhansi.
3. The accused applicant Manish Kumar was working in Tata Capital Housing Finance Limited as Credit Manager and sanctioned a housing loan of Rs.2565000/- on the basis of the report of surveyor and penal lawyer Ramesh Chandra Agarwal, co-accused, whereas the loan was already taken against the relevant property. FIR was lodged and investigation started. Now the charge sheet has been submitted.
4. It has been submitted by the learned counsel for the applicant that applicant is innocent and he has apprehension of his arrest in the above-mentioned case, whereas there is no credible evidence against him. Allegations levelled against the applicant are false. The investigation of the case has been completed and charge-sheet has been filed. It is further submitted that the accused applicant was working as a Credit Manager in the Tata Capital Housing Finance Limited and since according to the report of the surveyor and penal lawyer it was a clear case for sanctioning of housing loan, the said loan was sanctioned to the relevant person. It is further submitted that no embezzlement or fraud has been committed by the present applicant and no wrongful gain has been made by him in his favour. It is further submitted that he was working only as Acting Branch Manager at the relevant point of

time. He has been cooperating throughout the investigation of the case and now he is entitled for anticipatory bail. In case applicant is granted anticipatory bail, he will not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. opposed the prayer for anticipatory bail. It is vehemently submitted that it is the duty of the Branch Manager to verify the relevant papers of surveyor and penal lawyers before granting/ sanctioning the loan to any person. It is further submitted that the present Branch Manager Ginni Gupta, whose statement has been recorded by the I.O. during course of investigation has given a specific statement that the loan was sanctioned by the present applicant and thereby the company had suffered a huge monetary loss.

6. In this matter, it reveals that after completion of investigation, charge sheet has been submitted and cognizance has also been taken by the Court concerned. In *Sushila Aggarwal and others vs. State (NCT of Delhi) and another*, (2020) 5 SCC 1, the Hon'ble Apex Court has settled the controversy finally by holding the anticipatory bail need not be of limited duration invariably. In appropriate case, it can continue upto conclusion of trial.

7. It has been further held therein that anticipatory bail granted can, depending on the conduct and behavior of the accused, continue after filing of the charge sheet till end of trial.

8. It has been further held by the Hon'ble Apex Court that while considering an application for grant of anticipatory bail, the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence including intimidating witnesses, likelihood of fleeing justice, such as leaving the country, etc. It has further been held that Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion.

9. In the facts and circumstances of the case also keeping in mind that it is a case of embezzlement and grabbing of huge amount of poor public also in view of the law laid down by the Hon'ble Apex Court, I deem it not a fit case to grant anticipatory bail to the present applicant. Prayer made in the application is refused.

10. The anticipatory bail application is rejected.

11. The observation made in this application is limited strictly in respect of grant of anticipatory bail only and has no concern with the merits of the case or regular bail application, if any.

Order Date :- 16.11.2023

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