

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2917 of 2023

Applicant :- Mohd. Usman

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Rajiv Sisodia, Dharendra Kumar
Srivastava

Counsel for Opposite Party :- G.A., Pranjal Singh, Ram Kumar
Dubey, Vinay Kumar Pandey

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Rajiv Sisodia, learned counsel for the applicant, Sri Ram Kumar Dubey, learned counsel for the informant and Sri Amit Kumar Shukla, learned A.G.A. for the State as well as perused the record.
3. The present anticipatory bail application has been filed on behalf of the applicant in Case Crime No.79 of 2021, registered under Sections 420, 467, 468, 471, 504, 506 I.P.C. at Police Station- Bhopa, District- Muzaffar Nagar with a prayer to enlarge him on anticipatory bail.
4. This is the second anticipatory bail application on behalf of the applicant. The first anticipatory bail application was rejected by this Court for want of prosecution vide order dated 19.1.2023.
5. As per prosecution story, the applicant is stated to have tried to get the voter card issued to three minor persons on 28.12.2020 by depositing the said documents. On verification, the said documents were found fake and the applicant is stated to have threatened the informant on 3.3.2021, as such, the FIR was instituted on 12.3.2021.
6. Learned counsel for the applicant has stated that the FIR itself is delayed as the cause of action arose on 28.12.2020 itself. The said FIR has been instituted at the behest of his rivals as the informant is Siksha Mitra. Learned counsel has further stated that the criminal history assigned to the applicant stands explained as in two of the cases he had filed petition under Section 482 Cr.P.C. and the proceedings were stayed and in four

cases he has been acquitted. There is one case under the Gundas Act and one case is under the Gangsters Act. In two cases, the applicant has not been found to be an accused and in one case compromise has been entered between the parties. There is one another case under Section 302 I.P.C., which is pending and he has been enlarged on bail in it.

7. Learned counsel for the applicant has further stated that the applicant is entitled for anticipatory bail as the FIR is delayed and he cannot be sent to jail on account of his criminal antecedents, if otherwise, the case of anticipatory bail is made out. The applicant has apprehension of his arrest. Learned counsel for the applicant undertakes that he has co-operated in the investigation and is ready to do so in trial also failing which the State can move appropriate application for cancellation of anticipatory bail.

8. Per contra, learned counsel for the informant has vehemently opposed the anticipatory bail application on the ground that as per his information there are 14 cases pending against the applicant, as such, he has not properly explained all the cases. In this case, the applicant had even challenged the final report (charge-sheet) before this Court by filing Application U/S 482 No.29023 of 2021 and the same was dismissed vide order dated 1.4.2022. The present anticipatory bail application is not maintainable in the light of paragraph 43(3) of the judgment of this Court passed in the case of **Shivam vs. State of U.P. and Another, AirOnline 2021 All 484**.

9. Learned A.G.A. has also opposed the anticipatory bail application and has stated that there are criminal history of 19 cases against the applicant including the present case, as such, the criminal history has not been properly explained.

10. After hearing learned counsels for the parties and taking into consideration the fact that applicant has failed in the petition filed under Section 482 Cr.P.C. and there is large criminal history of the applicant and also in the light of paragraph 43(3) of the judgment of this Court passed in **Shivam (supra)**, I do not find it a fit case to grant anticipatory bail to the applicant.

11. The present anticipatory bail application is hereby found devoid of merits and is, accordingly, **rejected**.

Order Date :- 12.10.2023
Vikas

[Krishan Pahal, J.]