

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 3368 of 2023

Applicant :- Sandeep Kumar Chaubey @ Lucky

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

Counsel for Applicant :- Raj Nath Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. Supplementary affidavit filed today is taken on record.
2. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the material available on record.
3. Apprehending his arrest, the present anticipatory bail application has been filed on behalf of the applicant - **Sandeep Kumar Chaubey @ Lucky** in Case Crime No.0008 of 2022 under Sections 467, 468, 471 and 120-B IPC, P. S. Cyber Crime, District Gorakhpur, with a prayer to enlarge him on anticipatory bail.
3. Earlier, vide order dated 11.4.2023, interim anticipatory bail application was granted to the applicant till framing of charge in the matter and now today copies of the order-sheets have been filed along with the supplementary affidavit to show that the applicant is cooperating with the trial and charges have not been framed so far in the trial court. The interim protection granted to the applicant has not been misused by him. Charge-sheet in this matter has been submitted and now no custodial interrogation is required in the matter. Counter and rejoinder affidavits have been exchanged between the parties and the same are on record. Nowhere in the counter affidavit it has been alleged that the money was deposited in the bank account of the present applicant. It further reveals from the contents of the counter affidavit that nothing has been mentioned therein on the point that the mobile number through which the informant was contacted, belongs to the applicant.
4. In view of that, no custodial interrogation is required in the matter.
5. 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.

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.

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.

6. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, in my view, it is a fit case for anticipatory bail to the applicant till end of the trial in the matter.

7. The anticipatory bail application is **allowed**.

8. In the event of arrest of the applicant in the aforesaid case crime, he shall be released on anticipatory bail till end of the trial on his furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the Court concerned with the following conditions :-

(i) The applicant shall make himself available before the court concerned on the date fixed in the matter;

(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 him / her from disclosing such facts to the Court or to any police officer;

(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.

9. In case of default of any of the conditions, same may be a ground for cancellation of protection granted to the applicant.

Order Date :- 1.11.2023

ss