Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 3843 of 2022

Applicant :- Smt. Reena Devi
Opposite Party :- State Of U.P.And Another
Counsel for Applicant :- Pankaj Srivastava
Counsel for Opposite Party :- G.A.,Parvez Alam

Hon'ble Krishan Pahal,J.

1. List has been revised. Supplementary affidavit filed today by the learned counsel for the applicant is taken on record.

2. Heard Sri Pankaj Srivastava, learned counsel for the applicant and Mohd. Israr, Advocate holding brief of Sri Parvez Alam, learned counsel for the informant as well as Sri Varun Pratap Singh, learned A.G.A. for the State and also perused the record.

3. The present anticipatory bail application has been filed on behalf of the applicant in Complaint Case No.6908360 of 2018, u/s 420, 467, 468, 471, 379, 504, 506, 120-B of IPC, Police Station Sikandra, District Agra, with a prayer to enlarge her on anticipatory bail.

4. As per prosecution story, the applicant is stated to have purchased a land from Archana, who in turn has purchased it from the Society. The applicant and other co-accused persons are stated to have fudged the records of the Society without mentioning any boundary of the said land and even mentioned wrong area of it thereby have committed forgery with the said Society, thus, leading to a loss to it.

5. Learned counsel for the applicant has stated that the applicant is maliciously being prosecuted in the present case due to ulterior motive and has apprehension of her arrest. She has nothing to do with the said offence as alleged by the prosecution. Learned counsel has further stated that she is a bonafide purchaser. The matter of civil in nature has been converted into a criminal one by the informant. Learned counsel has also placed much reliance on certain sale-deeds executed in the year 1987 whereby due to clerical mistake, inadvertently the area of the land has been mentioned as 167.40 square meters instead of 209. It is also evident in the said sale-deeds that in the plot measuring 167.40 square meters, the duty of Rs.8,000/- has been paid while in the case of present sale-deed, the duty of Rs.10,000/- has been paid which indicates that the area was more than 167.40 square meters.

6. Learned counsel for the applicant has further stated that twice the closure report has been filed in the present case and the applicant and other co-accused persons have been summoned on the protest petition being filed by the informant. It is further submitted that the applicant was granted interim protection by this Court vide detailed order dated 07.05.2022 and she has not misused the liberty granted to her. She has no criminal history. In case, the anticipatory bail application of the applicant is allowed, she shall cooperate with trial.

7. On the other hand, learned counsel for the informant as well as learned A.G.A. have vehemently opposed the prayer for grant of anticipatory bail on the ground that the applicant along with the office bearers and members of the Society have committed the said forgery, as such, she is not entitled for anticipatory bail.

8. Considering the arguments advanced by the learned counsel for the parties and in view of the law laid down by the Apex Court in the case of "**Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC online SC 98**", the applicant is entitled to be granted anticipatory bail in this case.

9. Without expressing any opinion upon ultimate merits of the case either ways which may be adversely affect the trial of the case, the anticipatory bail application of the applicant is **allowed**.

10. In the event of arrest of the applicant, **Smt. Reena Devi** involved in the aforesaid case crime number, shall be released on anticipatory bail till the conclusion of trial on furnishing a personal bond with two sureties each in the like amount to the satisfaction of the Presiding Officer/Court Concerned, with the conditions that:-

i. that the applicant shall make herself available for interrogation by a police officer as and when required;
ii. that 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 from disclosing such facts to the court or to any police officer or tamper with the evidence;
iii. that the applicant shall not leave India without previous permission of the court;
iv. that the applicant shall not tamper with the evidence during the trial;
v. that the applicant shall not pressurize/ intimidate the prosecution witness;
vi. that the applicant shall appear before the trial court on each date fixed unless personal presence is exempted;

11. In case of breach of any of the above conditions, the court concerned shall have the liberty to cancel the bail granted to the applicant.

12. It is made clear that observations made in granting anticipatory bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 21.11.2023
Siddhant

Digitally signed by :-
SIDDHANT SAHU
High Court of Judicature at Allahabad