

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 4355 of 2023

Applicant :- Vivek

Opposite Party :- State of U.P.

Counsel for Applicant :- Ulajhan Singh Bind, Dhirendra Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

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

2. Heard Sri Ulajhan Singh Bind, learned counsel for applicant as well as Sri Anit Kumar, learned A.G.A. for State and also perused the material available on record.

3. The present application for anticipatory bail has been filed for protection in regard to FIR/Case Crime No. 0167 of 2022, under Sections 306 I.P.C., P.S.- Hari Parwat, District- Agra.

4. Learned counsel for the applicant has stated that the applicant was granted interim protection by this Court vide order dated 26.4.2023. Learned counsel has also stated that the applicant is Commando in NSG at Kolkata. It is also stated that the present FIR is hit by Section 300 Cr.P.C. as on similar grounds, another FIR was instituted against other accused persons by the other informant, as such, he has nothing to do with the said offence.

5. Per contra, learned A.G.A. has vehemently opposed the prayer for anticipatory bail on the ground that the said FIR No. 166 of 2022 was instituted against other accused persons namely, Pratap Singh, Saajan Sharma, Rahul and Gaurav and the said offence is of different nature. Learned A.G.A. has stated that there is no abetment to suicide in the said case. The said offence was instituted u/s 420, 406, 467, 468, 471, 120-B IPC, as such, the averments by the applicant that the said case and the present case arise after one and the same incident, are false, as in the present case, there are categorical allegations against the applicant of abetment to suicide. Learned A.G.A. has next stated that the applicant has not come with clean hands and the previous order dated 26.4.2023 has been garnered by misleading the Court and it

is hit by Section 44 of the Indian Evidence Act.

6. Considering the rival submissions advanced by the learned counsel for the parties that both the FIRs have different ingredients, although there are allegations of forgery in both the FIRs but in the present FIR, there is categorical allegation against the applicant of abetment to suicide, as such, I do not find it a fit case for grant of anticipatory bail to the applicant.

7. In view of the above, the present anticipatory bail application is found devoid of merits and is, accordingly, **rejected**.

(Justice Krishan Pahal)

Order Date :- 26.10.2023

Shalini