

**Court No. - 78**

**Case :-** CRIMINAL MISC ANTICIPATORY BAIL  
APPLICATION U/S 438 CR.P.C. No. - 8581 of 2023

**Applicant :-** Nand Lal Pandey

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Manoj Kumar Pandey

**Counsel for Opposite Party :-** G.A.

**Hon'ble Raj Beer Singh,J.**

1. Supplementary affidavit filed by learned counsel for the applicant is taken on record.
2. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
3. The present application has been moved seeking anticipatory bail in Case Crime No.455 of 2006, under Sections 409, 420, 120B IPC and 13(2) of Prevention of Corruption Act, P.S. Kotwali Nagar, District Mirzapur with the prayer that in the event of arrest, applicant may be released on bail.
4. It has been argued by the learned counsel for the applicant that applicant is innocent and he has an apprehension that he may be arrested in the above-mentioned case, whereas there is no credible evidence against him. Learned counsel submitted that applicant was working as accountant and that he has to release the funds after due approval of competent Senior Authority. Applicant cannot release the fund at his own. There is no evidence that applicant has misappropriated or misused any public fund or he has been beneficiary of the same. Applicant has already retired from service and now he is aged about 70 years. It was submitted that charge-sheet was filed in the year 2016 but the proceedings of the case were stayed by this Court vide order dated 07.03.2018

passed in matter under Article 227 No. 1342 of 2018. As the said stay order could not be extended further, the trial court has started proceedings in pursuance to the law laid down in case of Asian Resurfacing of Road Agency Pvt. Ltd. and Anr. Vs. Central Bureau of Investigation, AIR 2018 SC 2039, whereas, aforesaid petition under Article 227 is still pending. As the applicant has not been arrested during investigation thus, after submission of charge-sheet, no useful purpose would be served to send the applicant to jail, particularly, when he is aged about 70 years. The applicant has no criminal antecedents. Learned counsel has submitted that co-accused Vinod Kumar Jaiswal has already been granted anticipatory bail by this Court, the copy of which, is available on record. The applicant undertakes to co-operate during trial and he would appear as and when required by the Court. It has been stated that in case, the applicant is granted anticipatory bail, he shall not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. has opposed the prayer for anticipatory bail and submitted that applicant was working as accountant and that he was involved in purchasing of stationary and other items, which were purchased by violating the Government Orders. However, it could not be disputed that co-accused Vinod Kumar Jaiswal has already been granted anticipatory bail by this Court.

6. It may be stated that in case of **Siddharam Satlingappa Mhetre v. State of Maharashtra**, (2011) 1 SCC 694, it has been held by Hon'ble Supreme Court that while deciding anticipatory bail, Court must consider nature and gravity of accusation, antecedent of accused, possibility of accused to flee from justice and that Court must evaluate entire available material against the accused carefully and that the exact role of the accused has also to be taken into consideration.

7. In the instant case, 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 on merit of the case, a case for anticipatory bail is made out.

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

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

(i). The applicant shall not tamper with the evidence during the trial.

(ii). The applicant shall not pressurize/ intimidate the prosecution witness.

(iii). The applicant shall appear before the trial court on the date fixed, unless personal presence is exempted.

(iv). The applicant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

(v). 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 them from disclosing such facts to the Court or to any police officer or tamper with the evidence.

10. In case of breach of any of the above condition, the Court below shall be at liberty to cancel bail of applicant in accordance with law.

**Order Date :- 3.11.2023**

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