

**Court No. - 78**

**Case :-** CRIMINAL MISC ANTICIPATORY BAIL  
APPLICATION U/S 438 CR.P.C. No. - 8897 of 2023

**Applicant :-** Abdul Moid

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

**Counsel for Applicant :-** Ramesh Chandra Yadav, Preeti Yadav

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

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

1. Heard learned counsel for the applicant, Sri J.K. Upadhyay, learned A.G.A. for the State and perused the record.
2. The present application has been moved seeking anticipatory bail in Case Crime No.152 of 2022, under Section 147, 323, 327, 448, 506 IPC, P.S. Jajmau, District Kanpur Nagar with the prayer that in the event of arrest, applicant may be released on bail.
3. 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. The informant has lodged first information report against six named and 15-16 unknown persons, alleging that they have illegally taken over possession over his land, measuring 500 squire meters. Learned counsel submitted that the first information report has been lodged after about four and a half years and there is no satisfactory explanation regarding this long delay in lodging of the FIR. It was stated that the applicant has purchased 75 squire meter land adjoining to plot of complainant and except that he has no concern at all with the alleged incident. Referring to first information report and statements of witnesses, it was pointed out that main allegations have been levelled against

co-accused Irfan Solanki M.L.A. and Rizwan Solanki, who have already been granted bail. In alleged incident no one has sustained any injury. No specific role has been assigned to the applicant. It is further submitted that co-accused Shabbar Hussain has already been granted bail by this Court. The applicant has no criminal antecedents. The applicant undertakes to co-operate during investigation and trial and he would appear as and when required by the investigating agency or 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.

4. Learned A.G.A. has opposed the prayer for anticipatory bail and argued that applicant was involved in the incident, wherein, the accused persons have illegally taken over possession over the land of informant. It was pointed out that in the report of 'Lekhpal' and 'Tehsildar', it has been shown that the land of the plot of informant was illegally occupied by the accused persons. However, it could not be disputed that similarly placed co-accused have already been granted bail by the Session Court.

5. 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.

6. 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.

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

8. In the event of arrest of the applicant- Abdul Moid 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 Station House Officer of the police station concerned/Court below concerned with the following conditions :-

(i) the applicant shall make himself available for interrogation by the police as and when required;

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

(iii) the applicant would co-operate during investigation and trial and would not misuse the liberty of bail.

9. In default of any of the conditions, the Investigating Officer/prosecution shall be at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicant.

**Order Date :- 4.12.2023**

Neeraj