

**Court No. - 73**

**Case :-** CRIMINAL MISC ANTICIPATORY BAIL  
APPLICATION U/S 438 CR.P.C. No. - 9617 of 2023

**Applicant :- Shanti Devi**

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

**Counsel for Applicant :-** Vinod Kr Pandey

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

**Hon'ble Nalin Kumar Srivastava,J.**

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

2. This application has been moved on behalf of the applicant **Shanti Devi** seeking anticipatory bail in Case Crime No. 046 of 2006, under Sections 409, 420, 467, 468, 471, 34 IPC, Police Station-Sikandarpur, District- Ballia.

3. Distribution of food grains was not made to the eligible village workers as per rule and the development work was also did not take place but a huge payment was shown to be made on record. FIR against 173 named persons including the present applicant, who happened to be the gram pradhan, Akhaini for the said embezzlement was lodged on 8.5.2006 and investigation in respect of the present applicant is going on.

4. It is submitted by the learned counsel for the applicant that the applicant is innocent and has no concern with the present matter. Allegations levelled against the applicant are false. It is further argued that investigation is going-on and till date no charge-sheet has been submitted against the accused applicant. It is further submitted that there is no detail in the FIR as to what development work had to take place and in which area the food grains were to be supplied and without any specific details on vague allegations FIR was lodged in the year 2006. It is further submitted that the applicant never embezzled any public fund in discharge of her duties as gram pradhan, Akhaini. It is further submitted that the investigation against the applicant is going on and no charge sheet has been submitted so far. It is also submitted that the applicant has a criminal antecedent of one solitary case wherein she has been acquitted by the concerned Sessions Court. It is further submitted that the applicant is entitled for anticipatory bail. It is lastly

submitted that in case applicant is granted anticipatory bail, she shall not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. opposed the prayer for anticipatory bail. It is submitted that a huge racket has been discovered including several gram pradhans and executive officers and fair shop dealers as well which is indulged in the embezzlement of public fund during investigation. A thorough investigation is going on in this matter at present crime branch is investigating the matter as the matter pertains to the embezzlement of a huge public funds and ample evidence has been collected so far against the present applicant who was working as gram pradhan on relevant point of time. It is further submitted that since the area of embezzlement is very vast, custodial interrogation is compulsorily required in this matter and the applicant is not applicable for anticipatory bail.

6. Since the matter pertains to a embezzlement of huge public exchequer and active participation of the present applicant in the crime has been found during course of investigation, this Court is not inclined to grant anticipatory bail to the present applicant.

7. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has settled held 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.

8. 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, I deem it not a fit case to grant anticipatory bail to the present applicant. Prayer made in the application is refused.

9. The anticipatory bail application is **rejected**.

**Order Date :- 16.10.2023//Fhd**