

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10793 of 2023

Applicant :- Daljit Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Shobhit Pathak

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. Criminal Misc. Exemption Application is allowed.
2. This application has been moved on behalf of the applicant - **Daljit Singh** seeking anticipatory bail in Case Crime No. 940 of 2007, under Sections 420, 467, 468, 471, 120-B IPC, Police Station Kotwali, District Moradabad.
3. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
4. It is submitted by the learned counsel for the applicant that applicant is innocent and he has apprehension of arrest in the above-mentioned case, whereas there is no credible evidence against him. Allegations levelled against the applicant are false. After completion of investigation, charge sheet has been submitted in the matter and the applicant has been cooperative during course of investigation. Main allegation, as per F.I.R., is against the accused Mohd. Asif Masood. No wrongful gain has been made in favour of the present applicant. It is further submitted that F.I.R. of this case was challenged before this Court through Criminal Misc. Writ Petition No. 20594 of 2008 and a protection order till submission of charge sheet was passed in favour of the applicant on 17.11.2008. It is also submitted after submission of charge sheet, the same was also challenged before this Court vide Application U/S 482 No. 18439 of 2009 wherein again protection was granted in his favour vide order dated 12.1.2018 and he was given liberty to move discharge application before the Court concerned and the said application U/S 482 CrPC was disposed of. It is further submitted that the discharge application moved in compliance with the order of this Court was rejected on 2.8.2022. No process under Sections 82 and 83 CrPC has been issued against the applicant and the applicant has not been declared absconder. It

is also submitted that earlier the Bank has filed the Original Application before the D.R.T. but in the said application the present applicant was not arrayed as party. It is further submitted that as a matter of fact relevant loan account has been settled between the parties under the O.T.S. scheme and there is no grudge to the informant and the matter has been finally settled. It is also submitted that the identically placed co-accused Arshjit Singh has been granted anticipatory bail by this Court vide order dated 27.9.2023 passed in Crl. Misc. Anticipatory Bail Application No.10823 of 2023. In case applicant is granted anticipatory bail, he will not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. opposed the prayer for anticipatory bail.

6. I have considered the rival submissions made by the learned counsel for the parties.

7. From the perusal of the record it appears that co-accused Mohd. Asif Masood had taken limit / loan from the Bank after presenting some other person as imposter in place of the informant and huge monetary loss was caused to the informant. F.I.R. was lodged and after investigation charge sheet has been submitted. It also reveals from the perusal of the record that applicant has been cooperative during investigation and no custodial interrogation is required. It further reveals that the loan account has been settled under the O.T.S. scheme of the bank, as appears from the perusal of the supplementary affidavit.

8. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has settled the law on the subject finally by holding that the anticipatory bail need not be of limited duration invariably. In appropriate case, it can continue upto conclusion of trial.

It has been further held therein that anticipatory bail granted can, depending on the conduct and behavior of the accused, continue after filing of the charge sheet till end of trial.

It has been further held by the Hon'ble Apex Court 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.

9. Considering the settled principles of law regarding anticipatory bail, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion on the merits of the case, in my view, it is a fit case for anticipatory bail to the applicant till the end of trial.

10. The application is **allowed** accordingly.

11. In the event of arrest of the applicant, he shall be released on anticipatory bail till the end of trial on his furnishing a personal bond of Rs.50,000/- with two sureties each in the like amount to the satisfaction of the Court concerned with the following conditions:-

(i) The applicant shall make himself available before the Court concerned on the date fixed in the matter and will cooperate in the trial.

(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 from disclosing such facts to the Court or to any police office.

(iii) The applicant shall not leave India without the previous permission of the Court and if he has passport, the same shall be deposited by him before the S.S.P./S.P. Concerned.

12. In case of default of any of the conditions, the same may be a ground for cancellation of protection granted to the applicant.

Order Date :- 13.10.2023

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