

Court No. - 78

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 9658 of 2023

Applicant :- Suresh Kumar

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

Counsel for Applicant :- Prem Prakash

Counsel for Opposite Party :- G.A.

Hon'ble Raj Beer Singh,J.

1. Heard learned counsel for the applicant, 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.0745 of 2018, under Sections 420, 467, 468, 471, 120-B IPC and Section 13(1)(a) and 13(2) of Prevention of Corruption Act, P.S. Kotwali, District Mathura with the prayer that in the event of arrest, applicant may be released on bail.
3. As per prosecution version, a Selection Committee was constituted for appointments of teachers in Government Basic Schools in district Mathura. One of the member, namely, District Magistrate, Mathura, has nominated the District Horticulture Officer, as member of the said committee. The applicant/District Horticulture Officer has further nominated District Horticulture Inspector Yogesh as member of the Selection Committee. The applicant was working as District Horticulture Officer. The allegation against all the members of the committee is that some of candidates have produced forged and fictitious documents before the Selection Committee and in connivance of members of the Committee, they got appointments as teachers in Basic Schools.
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. There is no such allegation that applicant has obtained any financial gain or he has demanded any amount or accepted any amount. The applicant is not named in the first information report and he has not participated in alleged process of selection. The informant has also not named the applicant in his statement under Section 161 Cr.P.C. Referring to facts of the matter, it was submitted that there is no credible evidence against the applicant. It is further submitted that co-accused Anil Kumar, Yogesh and Brij Mohan Rana have also been granted bail by different co-ordinate Benches of this Court, copies of which are available on record. It is further submitted that the applicant is a Government servant. It was also pointed out that regarding same issue, one more case was registered vide crime no.678 of 2018 and in that case applicant-accused has already been granted anticipatory bail. 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 will co-operate with the investigation and would obey all conditions of bail.

5. Learned A.G.A. has opposed the application for anticipatory bail.

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 principle 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- Suresh Kumar involved in the aforesaid case crime 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 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.

10. 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 :- 26.10.2023

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