

Court No. - 73

**Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 9834 of 2023**

Applicant :- Smt. Minakshi

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

Counsel for Applicant :- J.B. Singh

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. Heard learned counsel for the applicant, learned AGA and perused the material available on record.

2. This application for anticipatory bail has been filed by applicant- **Smt. Minakshi** in connection with F.I.R./Case Crime No. 93 of 2017, under Sections 420, 120B IPC and Sections 3, 4, 5, 6 Price and Cheat and Money Circulating Scheme Banning Act, 1978 and Section 66 of I.T. Act, Police Station Surajpur, District Gautam Budh Nagar.

3. As per prosecution story, the directors of the company are stated to have duped several persons including the informant of their hard-earned money. The informant is stated to have incurred a loss of Rs. 57,500/-.

4. It has been argued by the learned counsel for the applicant that applicant is innocent and she has apprehension of arrest in the above-mentioned case, whereas there is no credible evidence against her. Allegations levelled against the applicant are false. Charge sheet in the matter has been filed against the applicant. It is further submitted that the applicant had herself deposited some money in the said company and received a sum of Rs.3,45,00,000/- in her bank account and only on the basis of the said transaction the I.O. has implicated in this case. It is further submitted that it is a matter of fact that the husband of the applicant is shown as a promoter in the aforesaid company but the applicant has no concern with this company and she is not an employee of the said company. It is further submitted that co-accused Geeta Rani has already been granted anticipatory bail by this Court in Cr. Misc. Anticipatory Bail Application U/S 438 CR.P.C. No. - 6396 of 2023 by order dated 6.7.2023. It is further submitted that co-accused Smt Sarika Siddhu has already been

granted anticipatory bail by this Court in Cr. Misc. Anticipatory Bail Application U/S 438 CR.P.C. No. - 8449 of 2023 by order dated 10.8.2023 .It is further submitted that in the year 2017 the statement of the present accused was recorded by the I.O. but she was never arrested during course of investigation. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against her. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. In case, the anticipatory bail application of the applicant is allowed, she will not misuse the liberty and shall cooperate with trial.

5. On the other hand, learned A.G.A. has vehemently opposed the prayer for grant of anticipatory bail but unable to dispute the submissions raised by the learned counsel for the applicant. It is further submitted that even after filing of the charge sheet the applicant is not entitled for anticipatory bail.

6. In this matter charge sheet has been submitted copy of which has been filed and no custodial interrogation is required.

7. Although the charge sheet has been submitted in this matter but in **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has settled the controversy finally by holding the anticipatory bail need not be of limited duration invariably. In appropriate case, it can continue upto conclusion of trial.

8. 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.

9. 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.

10. 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, in my view, it is a fit case for anticipatory bail to the applicant till conclusion of trial in the matter.

11. The anticipatory bail application is allowed accordingly.

12. In the event of arrest of the applicant in the aforesaid case crime, she 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 concerned with the following conditions :-

i. 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 her from disclosing such facts to the Court or to any police officer or tamper with the evidence.

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

iii. The applicant shall not commit an offence similar to the offence of which she is accused, or suspected, of the commission of which she is suspected.

iv. The applicant shall not leave India without prior permission of the Court and if she has passport, the same shall be deposited by her before the S.S.P./S.P. concerned.

13. In case of breach of any of the above conditions, the Investigating Officer shall be at liberty to file appropriate application for cancellation of anticipatory bail of the applicant in accordance with law.

Order Date :- 12.10.2023

Fhd