

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41661 of 2019

Applicant :- Sushant Kumar Agarwal

Opposite Party :- State of U.P.

Counsel for Applicant :- Manoj Pandey, Gopal Swarup Chaturvedi (Senior Adv.), Pankaj Dubey, Shikhar Vats

Counsel for Opposite Party :- G.A., Kamendra Nath Singh, Sarveshwari Prasad

Hon'ble Krishan Pahal, J.

1. None is present on behalf of the informant even in the revised call.
2. Heard Sri Gopal Swarup Chaturvedi, learned Senior Counsel assisted by Sri Pankaj Dubey and Sri Man Singh, learned counsels for the applicant and Sri Sunil Kumar, learned A.G.A. for the State and also perused the record.
3. The present anticipatory bail application has been filed on behalf of the applicant in F.I.R./Case Crime No. 1047 of 2019, under Sections 420, 467, 468 & 471 of IPC, Police Station Sector-20 Noida, District Gautambudh Nagar, with a prayer to enlarge him on anticipatory bail.
4. As per prosecution story, the applicant, who happens to be the Director of the company M/s ET Infra Developers Private Limited, is stated to have forged a document of the High Court thereby had refrained from filing the amount of dues pending towards him, as such, the present FIR was instituted against him.
5. Learned Senior Counsel for the applicant has stated at Bar that it was the Advocate, who had issued the forged document to the applicant and the applicant had lodged the FIR No. 1047 of 2019 against him at police station Sector-20 Noida, Gautambudh Nagar. The delinquent Advocate Vijay Kumar Sharma was enlarged on bail by this very Court vide order dated 26.09.2022. Learned Senior Counsel has further stated that the applicant had even made a complaint against the said Advocate u/s 35 of the Advocates Act before the Bar Council of Uttar Pradesh whereby he has been debarred from practice vide order dated 29.09.2020. The applicant had already deposited the said amount due towards him which has been explained in para-30 of the affidavit filed along with anticipatory bail application.
6. Learned Senior Counsel for the applicant has further stated that the applicant was granted interim protection by this Court vide order dated 14.10.2019 and he has not misused the liberty granted to him. The applicant has apprehension of his arrest. He has nothing to do with the said offence as alleged by the prosecution. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. It is further submitted that the applicant has no criminal history. In case, the

anticipatory bail application of the applicant is allowed, he will not misuse the liberty and shall cooperate with trial.

7. 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 and also the fact that the applicant has no criminal history.

8. Considering the arguments advanced by the learned counsel for the parties and in view of the law laid down by the Apex Court in the case of "**Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC online SC 98**", the applicant is entitled to be granted anticipatory bail in this case.

9. Without expressing any opinion upon ultimate merits of the case either ways which may adversely affect the trial of the case, the anticipatory bail application of the applicant is **allowed**.

10. In the event of arrest of the applicant, **Sushant Kumar Agarwal** involved in the aforesaid case crime number, shall be released on anticipatory bail till the conclusion of trial on furnishing a personal bond with two sureties each in the like amount to the satisfaction of the Presiding Officer/Court Concerned, with the conditions that:-

- i. that the applicant shall make himself available for interrogation by a police officer as and when required;
- ii. that 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 from disclosing such facts to the court or to any police officer or tamper with the evidence;
- iii. that the applicant shall not leave India without previous permission of the court;
- iv. that the applicant shall not tamper with the evidence during the trial;
- v. that the applicant shall not pressurize/ intimidate the prosecution witness;
- vi. that the applicant shall appear before the trial court on each date fixed unless personal presence is exempted;

11. In case of breach of any of the above conditions, the court concerned shall have the liberty to cancel the bail granted to the applicant.

12. It is made clear that observations made in granting anticipatory bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 17.10.2023
Siddhant