

Court No. - 73

**Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 9856 of 2023**

Applicant :- Basant Kumar Jain

Opposite Party :- State Of U.P.And 2 Others

Counsel for Applicant :- Satendra Singh

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 **Basant Kumar Jain** seeking anticipatory bail in Case Crime No. 484 of 2018 under Sections 420, 467, 468, 471 IPC, Police Station Karahal, District- Mainpuri.

3. A forged election of management committee relating to Jain Educational Trust, Agra was conducted by the present accused applicant, who happens to be the manager of the same in collusion with other co-accused persons whereas earlier on the same day the election had already taken place and officer bearers were elected properly and some fabricated and forged documents were also prepared and produced before the District Inspector of School, Mainpuri. FIR was lodged on 25.7.2018 and after investigation now the charge sheet has been submitted.

4. It has been submitted by the learned counsel for the applicant that applicant is innocent and he has apprehension of his arrest in the above-mentioned case, whereas there is no credible evidence against him. Allegations levelled against the applicant are false. The investigation of the case has been completed and charge-sheet has been filed. It is further submitted that no irregularity was committed in performing the election of the Jain Educational Trust, Agra. It is further submitted that as a matter of fact the real brother of the informant was himself elected as chairman in the alleged election but with an ulterior motive he was not arrayed as accused in this case and only due to animosity and also with a view to overpower the management of the Jain Educational Trust the applicant was falsely implicated in this case. The applicant has been cooperative during course of investigation and after

submission of the charge sheet no process under Section 82/83 Cr.P.C. has been issued against him and he has not been declared as as proclaimed offender by the Court. It is further submitted that an Application U/S 482 No. 25372 of 2021 was moved earlier by the applicant but however no interim order was granted in his favour. It is further submitted that earlier Cr. Misc. Writ Petition No. 20987 of 2018 was also moved before this Court by the applicant along with the other co-accused persons wherein a protection order has been granted by this Court till submission of police report under Section 173 (2) Cr.P.C. vide order dated 3.8.2018 and the said liberty was not misused by the present applicant. 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. It is vehemently submitted that no reason has been disclosed by the applicant as to in what circumstances and with what motive election of the educational trust was performed twice on the same day. The first election was performed properly and the office bearers were elected but to perform the second election on the same day explicitly shows the fraudulent intention on the part of the applicant just to grab the management and property of the educational trust. Ample and sufficient evidence has been collected against him during course of investigation and as such he is not entitled for anticipatory bail.

6. In the present matter two elections were performed on the same day under the guidance of the present applicant, who happens to be the manager of the trust and no plausible explanation for the same was found by the I.O. during investigation.

7. In this matter, it reveals that after completion of investigation, charge sheet has been submitted and cognizance has also been taken by the Court concerned 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. In view of the law laid down by the Hon'ble Apex Court, I deem it not a fit case to grant anticipatory bail to the present applicant. Prayer made in the application is refused.

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

Order Date :- 12.10.2023

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