

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10878 of 2023

Applicant :- Lal Pari And 2 Others

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

Counsel for Applicant :- Ved Byas Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Ved Byas Mishra, learned counsel for the applicants, Sri Sunil Kumar, learned A.G.A. for the State and perused the material placed on record.
3. The present application for anticipatory bail has been filed for anticipatory bail in Case Crime No.333 of 2022, under Sections 419, 420, 467, 468, 471, 406, 504 and 506 IPC, Police Station Kotwali, District Deoria, during the pendency of trial.
4. As per prosecution story, the applicants are stated to have usurped an amount of Rs.20 lakhs of the informant on the pretext that he shall be provided the land as a sale deed executed in his favour. The informant is stated to have even purchased stamp papers for the execution of the sale deed, which got wasted as the applicants did not execute the said sale deed.
5. Learned counsel for the applicant has further stated that the applicant has been falsely implicated in the present case. The allegations have been escalated as only Rs.8,50,000/- were transferred through internet banking and rest allegations are false. One of the co-accused person has even returned Rs.1,70,000/- to the informant and they are ready to return the balance, if any. Learned counsel has further stated that the money suit has been converted into criminal one. 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.
6. Learned counsel for the applicant has placed reliance on the judgment of the Apex Court passed in the case of **Ravindra**

Saxena vs. State of Rajasthan, 2010 (1) SCC 684, whereby it has been opined that the petition U/S 438 Cr.P.C. is maintainable even after the filing of several petitions U/S 482 Cr.P.C.

7. Per contra, learned A.G.A. has vehemently opposed the anticipatory bail application on the ground that the applicants have already agitated the provisions of Section 482 Cr.P.C. by filing petition U/S 482 Cr.P.C. Nos.32053 of 2022 (Kiran and 2 Others vs. State of U.P and Another) and 37684 of 2022 (Chhangur Yadav and Another vs. State of U.P. and Another), as such in light of paragraph 43 of the judgment of this Court passed in the case of **Shivam vs. State of U.P. and Another, 2021 SCC OnLine All 264**, the applicants are not entitled for anticipatory bail.

8. A bare perusal of the judgment adduced before this Court by the learned counsel for the applicants indicates that the matter pertains to Rajasthan where even the FIR is challenged by filing a petition U/S 482 Cr.P.C., as such it is not applicable to the case of the applicants.

9. After hearing learned counsel for the parties and taking into consideration the paragraph 43 of the judgment passed by this Court in **Shivam (supra)**, I do not find it a fit case for grant of anticipatory bail to the applicant.

10. The present anticipatory bail application is hereby found devoid of merits and is accordingly **rejected**.

11. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of anticipatory bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 12.10.2023

Ravi Kant

(Krishan Pahal, J.)