

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 9887 of 2023

Applicant :- Manoj Kumar Patel

Opposite Party :- State Of U.P. Through Principal Secretary
(Home) U.P.

Counsel for Applicant :- Sudhanshu Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. This application has been moved on behalf of the applicant - **Manoj Kumar Patel** seeking anticipatory bail in Case Crime No. 433 of 2016, under Sections 419, 420, 467,468 IPC, Police Station Phoolpur, District Prayagraj.
2. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
3. It is submitted by the learned counsel for the applicant that applicant is innocent and he has apprehension of arrest in the above-mentioned case, whereas there is no credible evidence against him. Allegations levelled against the applicant are false. It is further submitted that the applicant was absolutely not in picture in the alleged fraud committed with the informant. If any fraud has been committed by the brothers of the applicant, he is not concerned with the same. No money has been given to the applicant either in cash or through electronic transaction. It is also submitted that only due to animosity the present applicant has been falsely implicated in this case. Applicant has no criminal history to his credit. After completion of investigation, charge sheet has been submitted in the matter. It is also submitted that the applicant had earlier approached this Court through Criminal Misc. Writ Petition No. 7788 of 2017 which was disposed of vide order dated 10.5.2017 granting interim protection to the applicant till filing of police report under Section 173(2) CrPC. No process under Sections 82 and 83 CrPC has been issued against the applicant and the applicant has not been declared absconder. In case applicant is granted anticipatory bail, he will not misuse the liberty of bail and would obey all conditions of bail.
4. Learned A.G.A. opposed the prayer for anticipatory bail.

5. I have considered the rival submissions made by the learned counsel for the parties.

6. It has been alleged in the F.I.R. that the brothers of the applicant by playing fraud with the informant on the false pretext of providing employment to his son in the name of the present applicant had taken a huge amount of money but no service was provided to the son of the informant in Malaysia and he suffered a huge monetary loss. F.I.R. was lodged on the basis of an order passed on the application under Section 156(3) CrPC and after investigation charge sheet has been submitted in the matter. Applicant has been cooperative during course of investigation.

7. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has settled the law on the subject finally by holding that the anticipatory bail need not be of limited duration invariably. In appropriate case, it can continue upto conclusion of trial.

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.

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.

8. Considering the settled principles of law regarding anticipatory bail, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion on the merits of the case, in my view, it is a fit case for anticipatory bail to the applicant till the end of trial.

9. The application is **allowed** accordingly.

10. In the event of arrest of the applicant, he 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 make himself available before the Court concerned on the date fixed in the matter and will cooperate in the trial.

(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 from disclosing such facts to the Court or to any police office.

(iii) The applicant shall not leave India without the previous permission of the Court and if he has passport, the same shall be deposited by him before the S.S.P./S.P. Concerned.

11. In case of default of any of the conditions, the same may be a ground for cancellation of protection granted to the applicant.

Order Date :- 12.10.2023

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