

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42769 of 2019

Applicant :- Raj Kumar And 6 Others

Opposite Party :- State Of U.P.And Another

Counsel for Applicant :- Ramesh Kumar Ojha

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Rejoinder affidavit filed today is taken on record.
3. Heard Sri Ramesh Kumar Ojha, learned counsel for the applicant and Sri Anil Kumar Mishra, learned A.G.A. for the State as well as perused the record.
4. Learned counsel for the applicants has informed that applicant no.-2 Shanker Lal Pandey has expired, as such the anticipatory bail application qua applicant no.2 has been rendered infructuous.
5. The present anticipatory bail application with respect to applicant no.-2 Shanker Lal Pandey is dismissed as infructuous.
6. As far as applicant nos.1, 3, 4, 5, 6 and 7 are concerned, the anticipatory bail is being decided as follows.
7. The present application for anticipatory bail has been filed on behalf of the applicants- **Raj Kumar, Ram Sumer Pandey, Sant Saran Pandey, Munesh Kumar, Jagannath and Shiv Kumar Pandey** for anticipatory bail in Case Crime No.82 of 2007, under Sections 419, 420, 463, 464, 465, 466, 467, 468, 469, 470 and 471 I.P.C., Police Station Holagarh, District Prayagraj (Allahabad), during the pendency of trial.
8. As per prosecution story, as many as 92 persons, including the applicants, are stated to have been issued Kisan Credit Card by the Bank of Baroda in the year 2007 to withdraw money for agriculture purpose which was taken on the basis of forged documents. The said accounts were declared NPA.
9. Learned counsel for the applicants has stated that the applicants have been falsely implicated in the present case. The case of co-accused person Ram Chandra Ojha has been quashed

as the final report (charge-sheet) was submitted against him and he had challenged the same by filing a petition under Section 482 Cr.P.C. No.28654 of 2014 and this Court had quashed it vide order dated 13.02.2023. Learned counsel has further stated that the applicants are bonafide persons and the doctrine of stare decisis applies to the applicants as the case of applicants is at a similar footing to the co-accused persons.

10. Per contra, learned A.G.A. has vehemently opposed the anticipatory bail application on the ground that the instant application has been filed under Section 438 Cr.P.C. and the case qua Ram Chandra Ojha has been quashed in the proceedings under Section 482 Cr.P.C., as such the doctrine of stare decisis cannot be applied to the instant anticipatory bail application. Learned A.G.A. has further stated that the proceedings under Section 82 Cr.P.C. are complete against the applicants on 16.04.2014 itself and the applicants have been declared a proclaimed offender. They are dilly dallying and evading the trial, as such the applicants are not entitled for anticipatory bail.

11. After hearing learned counsel for the parties and taking into consideration the judgment of Apex Court passed in **Lavesh vs. State (NCT of Delhi), (2012) 8 SCC 730** coupled with the fact that the quashing the case of Ram Chandra Ojha do not apply to the case of the applicants, I do not find it a fit case for grant of anticipatory bail to the applicants.

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

13. 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 :- 30.11.2023
Ravi Kant

(Krishan Pahal, J.)