

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10089 of 2023

Applicant :- Rahul Shukla

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

Counsel for Applicant :- Ayub Khan

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. This application has been moved on behalf of the applicant **Rahul Shukla** seeking anticipatory bail in Case Crime No.825 of 2021, under Sections 420, 406 IPC, Police Station Sikandrabad, District Bulandshahr.

2. Heard Shri Ayub Khan, learned counsel for the applicant, Shri Yaduvesh Yadav, learned counsel for the informant as well as the learned A.G.A. for the State and perused the record.

3. 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. It is further submitted that the informant is a money lender and he uses to deposit money of many persons in the bank account of the applicant and takes cash money from the applicant. No agreement to sale took place between the parties. Proceeding under Section 138 Negotiable Instruments Act has already been initiated by the informant against the present applicant. The investigation of the case has been completed and charge sheet has been filed and the applicant had been cooperative in the investigation. It has been submitted that in case applicant is granted anticipatory bail, he shall not misuse the liberty of bail and would obey all conditions of bail.

4. Learned counsel for the informant and the learned A.G.A. opposed the prayer for anticipatory bail and submitted that whole transaction between the parties has been made as bank transaction and documentary evidence for the same is available on record. A huge amount of money about Rupees Twenty Five Lakhs was embezzled by the applicant and in lieu thereof when cheques were given by him, the same were dishonoured. Applicant had fraudulent intention to grab the money of the informant from the very inception. Ample and sufficient evidence has been collected

against the applicant during course of investigation.

5. In this matter, from the perusal of the record it appears that the applicant and the informant had agreed for sale of some property valuing Rupees Twenty Eight Lakhs and a huge amount of Rupees Twenty Four Lakhs and Eighty Thousand was transferred in the bank account of the applicant by the informant and when subsequently for repayment of the same, cheques valuing Rupees Twenty Lakhs and Rupees Five Lakhs were given by the applicant to the informant, the same were dishonoured by the bank. F.I.R. was lodged and investigation started, which culminated into charge sheet. Ample and sufficient evidence has been collected against the applicant during course of investigation.

6. 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.

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.

7. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant, all attending facts and circumstances of the case and the fact that allegations are serious in nature, without expressing any opinion on the merits of the case, in my view, it is not a fit case for anticipatory bail to the applicant. Prayer made in the application is refused. The application is **rejected**.

Order Date :- 18.10.2023/safi