

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10212 of 2023

Applicant :- Arun Kumar Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Hemant Kumar, Aravind Kumar Tripathi

Counsel for Opposite Party :- G.A., Sanjay Kumar Mishra

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Hemant Kumar, learned counsel for applicant and Sri Sanjay Kumar Mishra, learned counsel for the informant as well as Sri V.K.S. Parmar, learned A.G.A. for State and also perused the material available on record.
3. The present application for anticipatory bail has been filed for protection in regard to FIR/Case Crime No. 0186 of 2023, under Sections 419, 420, 467, 468, 471, 409 I.P.C., P.S.- Ahirauli Bazar, District- Kushinagar.
4. As per prosecution story, a resident of village of the informant, Taluk Raj S/o Veepat had four sons Rajesh, Ashok, Rajeev @ Arunesh and Pramod. Rajeev @ Arunesh had passed examination of Class 8th from Fateh Bahadur Singh Memorial, Junior Middle School in the year 2003 and thereupon, he had passed Class 10th exam from Subhash Inter College, Bedupar, District Kushinagar and his date of birth was 1.7.1990. As his marks were less in the said High school marksheet, he got issued a fake Class 8th pass marksheet from Dr. Bheem Rao Ambedkar, Junior High School, Chauri Chaura, District Gorakhpur and took admission at Bapu Balika Inter College Shahpur, Devaria and again passed the High School from the said institution in the year 2006 and used his name as Arun Kumar S/o Taluk Raj and changed his date of birth to 1.7.1991 and subsequent to it, he passed the intermediate examination in the year 2008. On the basis of such fake documents, he got himself a job as Rojgar Sewak at village Bhaluha. Being on the said post of Rojgar Sewak, the applicant is stated to have forged the family register in collusion with the Secretary of the Gram Sabha and showed Arun Kumar as the fifth son of Taluk Raj. The applicant is stated to have even forged job

cards.

5. It is also alleged that the applicant are four brothers only and has no fifth brother. It was found that the applicant caused loss to the State Exchequer, as such, he was dismissed from his office and the Secretary of Gram Pradhan of the Gram Sabha was directed to institute an FIR, but no action was taken against the applicant by the police, as such, the present application u/s 156(3) Cr.P.C. was moved by the informant and the FIR was instituted against the applicant.

6. Learned counsel for the applicant has stated that the applicant has been falsely implicated in the present case. It is also stated that Rajeev Kumar was the elder brother of the applicant, who died in the year 2005 and had passed 10th examination from Subhash Inter College, Bedupar. Learned counsel has also stated that the name of the applicant was recommended by Village Panchayat Administrative Committee after due checks and scrutiny of the applications received from several contestants for the same post and was duly approved by District Magistrate, Kushinagar, on 20.12.2010. It is next stated that the complainant did not raise any objection to the said appointment for 13 long years. The present FIR has been instituted with malice to pull down his social image and remove hurdle in a political career in the village, as the applicant supported the opposite party to the informant in the local Gram Panchayat elections.

7. Learned counsel has placed reliance on the statement of the Principal of Dr. Bheem Rao Ambedkar Junior High School, Chauri Chaura, Gorakhpur, that Arun Kumar S/o Tulak Raj had studied in his school from Class 1st to 8th and he had issued the T.C. in the year 2004 when he had passed Class 8th exam. The same statement has been reiterated by the Principal, Bapu Balika Inter College, Shahpur, Devoria, regarding the applicant having passed from the institution in the year 2006. It is also stated that family register is under the custody of Panchayat Secretary, as such, there is no likelihood of applicant tampering it. The entire responsibility of fudging it, if any, lies on the Panchayat Secretary only. Learned counsel has next stated that the applicant has not deceived any person by any fraudulent or dishonest act and has not induced any person to deliver any property to any person. The informant has created false documents against the applicant out of enmity. The allegations regarding the job card issued are also false, as no payment has been made on the said job card, if any.

8. It is further submitted that the applicant has no criminal

antecedents. In case, the anticipatory bail application of the applicant is allowed, he will not misuse the liberty and shall cooperate with trial.

9. Per contra, learned counsel for the informant has opposed the prayer for anticipatory bail on the basis of Annexure-8 filed with the affidavit, whereby it is stated that on inquiry, the Block Development Officer had found the said allegations correct that the job card was fake, although he had stated that no money was transferred on the said job card. Learned counsel has further stated that there is no illegality in appearing twice in the same examination to improve ones marks, but here the case is that the applicant has changed his name and date of birth, as such, he is not entitled for anticipatory bail.

10. Learned A.G.A. has also opposed the anticipatory bail but has not disputed the fact of no criminal history.

11. Considering the rival submissions advanced by the learned counsel for the parties and also the fact of the case that the applicant had forged the family register and the documents regarding his date of birth and Class 8th transfer certificate/marksheet coupled with the fact that he had even forged the job card and caused loss to State Exchequer, I do not find it a fit case for grant of anticipatory bail to the applicant as the arguments advanced by learned counsel for the applicant pertain to regular bail application and cannot be agitated at this stage.

12. In view of the above, the present anticipatory bail application is found devoid of merits and is, accordingly, **rejected**.

(Justice Krishan Pahal)

Order Date :- 31.10.2023

Shalini