

Court No. - 73

**Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10283 of 2023**

Applicant :- Bharat Lal Sharma

Opposite Party :- State of U.P.

Counsel for Applicant :- Raghbir Singh

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. Heard learned counsel for the applicant, Shri Shivakant Awasthi, learned counsel for the informant, learned A.G.A. for the State and perused the record.

2. This application has been moved on behalf of the applicant **Bharat Lal Sharma** seeking anticipatory bail in Case Crime No. 92 of 2023, under Sections 408, 420, 328, 34 IPC, Police Station - Aung, District- Fatehpur.

3. It was alleged against the present applicant that he was working as Chief Sales Officer in the firm of the informant and he had fraudulently taken Rs.6 lacs cash from the fund to deposit in the bank account and the same was not deposited. Subsequently he also taken Rs.3.5 lacs from the stockist Rinku Tiwari and after administering some intoxicant to the driver of the vehicle he also grabbed an amount valuing Rs. 3.5 lacs and did not return any amount to the firm. FIR was lodged and investigation started, which is going on.

4. It is submitted by the learned counsel for the applicant that the applicant is innocent and has no concern with the present matter. Allegations levelled against the applicant are false. It is further argued that investigation is going-on and till date no charge-sheet has been submitted against the accused applicant. It is further submitted that whole prosecution story is false and fabricated and as a matter of fact the son of the present applicant had made a complaint against the informant on the chief minister portal and inquiry was made in that matter, due to the animosity of the same the present applicant has been falsely implicated in this matter. It is further submitted that the story of handing over Rs.3.5 lacs to the applicant is also a fabricated piece of evidence and there is no written document for the same. It is also submitted that the

applicant has no criminal antecedent to his credit. It is further submitted that earlier a Criminal Misc. Writ Petition No. 9416 of 2023 was moved by the applicant but no relief, however, was granted to him and the writ petition was disposed of vide order dated 7.7.2023. It is lastly submitted that in case applicant is granted anticipatory bail, he will not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. and learned counsel for the informant opposed the prayer for anticipatory bail. It is vehemently submitted that during course of investigation the I.O. has recorded the statement of stockist Rinku Tiwari and the driver, who have corroborated the prosecution version as to how the intoxicant was administered to the driver and Rs.3.5 lacs was grabbed by the present applicant. It is also submitted that there was no occasion for the false implication of the applicant, who himself was the worker in the firm of the informant. It is also submitted that ample and sufficient evidence has been collected against the applicant by the I.O. so far in respect of the grabbing of money of the firm.

6. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has settled held 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 and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, I deem it not a fit case to grant anticipatory bail to the present applicant. Prayer made in the application is refused.

8. The anticipatory bail application is **rejected**.

9. In the last, learned counsel for the applicants has urged that direction be given to the learned Court concerned to consider and decide the bail application of the applicants in terms of the law laid

down by the Hon'ble Apex Court in ***Satender Kumar Antil vs. Central Bureau of Investigation and another, 2022 SCC OnLine SC 825.***

10. Hence, it is observed that the bail application of the applicants, if moved, shall be considered and decided by the Court concerned in terms of the law laid down by the Hon'ble Apex Court in ***Satender Kumar Antil case*** (supra).

11. It is further directed that the Court concerned while considering the bail application of the applicants in the light of ***Satender Kumar Antil*** case (supra), shall pass an order strictly in compliance of the directions given in the aforesaid judgement by the Hon'ble Supreme Court, in letter and spirit, particularly complying with the order dated 21.3.2023 of the Hon'ble Apex Court in the aforesaid matter.

Order Date :- 19.10.2023

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