

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10315 of 2023

Applicant :- Bilal Ali

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohit Behari Mathur

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Second supplementary affidavit filed today is taken on record.
3. Heard Sri Mohit Behari Mathur, learned counsel for the applicant, Sri Sunil Kumar, learned A.G.A. for the State and perused the material placed on record.
3. The present application for anticipatory bail has been filed for anticipatory bail in Case Crime No.0683 of 2019, under Sections 420, 467, 468, 471, 406, 120B and 34 I.P.C., Police Station Noida Sector-39, District Gautam Buddh Nagar, during the pendency of trial.
4. Learned counsel for the applicant has stated that the applicant is not named in the FIR. The named accused person Rohit @ Rohit Nagar has been enlarged on anticipatory bail vide order 07.07.2022 passed in Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No.4701 of 2022, as such the case of the applicant is at a better footing to the co-accused person. The investigation is going on and the applicant is ready to cooperate during investigation. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length.
6. Per contra, learned A.G.A. has vehemently opposed the anticipatory bail application on account of the long criminal history of the applicant.
7. In rebuttal, learned counsel for the applicant has stated that there are three cases in which the closure report has been filed and one of them has been accepted. In one case, the applicant

has complied with the provisions of Section 41-A Cr.P.C. The proceedings in the case of under Gangsters Act were stayed by this Court. Learned counsel has further stated that the applicant is not named in two cases and in three cases, the applicant has challenged the final report (charge-sheet) submitted against the applicant, as said the petitions U/s 482 Cr.P.C. are pending. The two cases left over are of similar nature and the case of the applicant is on same footing and the applicant has been enlarged on anticipatory bail in one of them, as such the applicant is entitled for anticipatory bail.

8. After hearing learned counsel for the parties and taking into consideration the fact that there is no proper explanation of the criminal history of the applicant and the case under Gangsters Act was challenged by the applicant by filing a criminal writ petition, which was disposed vide order dated 11.02.2020 and the protection was granted till submission of report under Section 173(2) Cr.P.C. and much time has passed since then, I do not find it a fit case for grant of anticipatory bail to the applicant. The arguments tendered at Bar pertain to regular bail application. They cannot be agitated at the stage of 438 Cr.P.C.

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

10. 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 :- 16.10.2023
Ravi Kant

(Krishan Pahal, J.)