

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10699 of 2023

Applicant :- Rajendra Kumar Singh

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

Counsel for Applicant :- Abhijeet Singh

Counsel for Opposite Party :- G.A.,Aakash Sharma

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Abhijeet Singh, learned counsel for the applicant, Sri Aakash Sharma, learned counsel for the informant and Sri V.K.S. Parmar, learned A.G.A. for the State as well as perused the record.
3. The present anticipatory bail application has been filed on behalf of the applicant in Case Crime No.202 of 2022, registered under Sections 420, 406, 506 I.P.C. at Police Station-Bisrakh, District- Central Commissionerate Gautam Buddh Nagar with a prayer to enlarge him on anticipatory bail.
4. As per prosecution story, the applicant, who happens to be agent of the informant, is stated to have got agreed to sell a 3 BHK flat to the informant from Maan Builders. In all Rs.6,00,000/- was given to the accused person of which Rs.3 lakh was given in cash. Subsequent to it, it was the applicant who is stated to have coerced the informant to get the 2 BHK flat for the said amount, but ultimately it was agreed that 1 BHK flat which belong to the applicant shall be transferred to the informant for a consideration amount of Rs.14,30,000/- of which Rs.11,30,000/- was given by the informant to the applicant. Thus, the applicant has neither given the flat nor returned the amount to the informant.
5. Learned counsel for the applicant has stated that the applicant has been falsely implicated in this case. The matter is civil in nature as already the informant was given possession of the said 1 BHK flat and was taking rent from it at the rate of Rs.6,000/- per month. Subsequently, he has refused to take possession instead demanded his money back. Learned counsel has stated that the criminal history of two cases assigned to the applicant stands explained as he has annexed the order in which he is not wanted in the said cases.

6. 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. The applicant has apprehension of his arrest. Learned counsel has stated that the applicant undertakes that he has co-operated in the investigation and is ready to do so in trial also failing which the State can move appropriate application for cancellation of anticipatory bail.

7. Per contra, learned counsel for the informant and learned A.G.A. have vehemently opposed the anticipatory bail application on the ground that the applicant is the main culprit as he had coerced the applicant into giving Rs.6,00,000/- to Maan Builders and taken Rs.11,30,000/- himself, as such, he is not entitled for anticipatory bail.

8. On due consideration to the arguments advanced by learned counsel for the applicant as well as learned A.G.A., considering the nature of accusations, antecedents of the applicant and taking into consideration that the matter is of civil in nature and also the fact that certain amount has been paid to the applicant and the said dispute can be resolved by seeking civil remedy, the applicant is liable to be enlarged on anticipatory bail in view of the judgment of Supreme Court in the case of "***Sushila Aggarwal Vs. State (NCT of Delhi)***, (2020) 5 SCC 1". The future contingencies regarding the anticipatory bail being granted to applicant shall also be taken care of as per the aforesaid judgment of the Apex Court.

9. In view of the above, the anticipatory bail application of the applicant is allowed. Let the accused-applicant- **Rajendra Kumar Singh** be released forthwith in the aforesaid case crime (supra) on anticipatory bail till the conclusion of trial on furnishing a personal and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

- (i). that the applicant shall make himself available for interrogation by a police officer as and when required;
- (ii). that the applicant shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer or tamper with the evidence;
- (iii). that the applicant shall not leave India without the previous permission of the court;
- (iv). that in case charge-sheet is submitted the applicant shall not tamper with the evidence during the trial;
- (v). that the applicant shall not pressurize/ intimidate the prosecution witness;
- (vi). that the applicant shall appear before the trial court on each date fixed

unless personal presence is exempted;
(vii). that in case of breach of any of the above conditions the court concerned shall have the liberty to cancel the bail.

10. It is made clear that observations made hereinabove are exclusively for deciding the instant anticipatory bail application and shall not affect the trial.

Order Date :- 27.10.2023

Vikas

[Krishan Pahal, J.]