

Court No. - 78

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10700 of 2023

Applicant :- Rajvansh Tiwari And 2 Others

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

Counsel for Applicant :- Satya Prakash Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Raj Beer Singh,J.

1. Heard learned counsel for the applicants, learned A.G.A. for the State and perused the record.
2. The present application has been moved seeking anticipatory bail in Case Crime No.191 of 2004, under Sections 225-A, 201 I.P.C. and Section 13(2) of Prevention of Corruption Act, Police Station Kotwali, District Kanpur Nagar with the prayer that in the event of arrest, applicants may be released on bail.
3. It has been argued by the learned counsel for the applicants that applicants are innocent and they have an apprehension that they may be arrested in the above-mentioned case, whereas there is no credible evidence against them. It was submitted that at the relevant time, the applicants were working in police and as per prosecution version, on 08.06.2004 some jewellery was robbed from sister of informant and one miscreant namely Dinesh Singh was apprehended. It was alleged that the said miscreant Dinesh Singh has paid an amount of Rs.10,000/- to the sister of informant and thereafter, he was let off by the police. Referring to first information report, it was submitted that no case is made out against applicants. After submission of charge-sheet the applicants have filed an application under Section 482 Cr.P.C., wherein,

proceedings of the case were stayed but later on that interim order could not be extended further and thus, the trial court has started the proceedings of the case. Applicants have no knowledge about the said proceedings. Learned counsel has referred the first information report and statements of witnesses and submitted that no case is made out against applicants. It was also stated that applicants have already retired from the police service on attaining the age of superannuation. The investigation is complete and charge-sheet has already been filed. The applicants undertake to co-operate during trial and they would appear as and when required by the Court. It has been stated that in case, applicants are granted anticipatory bail, they shall not misuse the liberty of bail and would obey all conditions of bail.

4. Learned A.G.A. has opposed the prayer for anticipatory bail and submitted that there are allegations against applicants.

5. It may be stated that in case of **Siddharam Satlingappa Mhetre v. State of Maharashtra**, (2011) 1 SCC 694, it has been held by Hon'ble Supreme Court that while deciding anticipatory bail, Court must consider nature and gravity of accusation, antecedent of accused, possibility of accused to flee from justice and that Court must evaluate entire available material against the accused carefully and that the exact role of the accused has also to be taken into consideration.

6. In the instant case, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicants and all attending facts and circumstances of the case, without expressing any opinion on merit of the case, a case for anticipatory bail is made out.

7. The anticipatory bail application is **allowed**.

8. In the event of arrest of the applicants- Rajvansh Tiwari, Ramesh Chandra Sharma and Hori Lal Yadav in the aforesaid case crime, they shall be released on anticipatory bail on their furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the court below concerned with the following conditions :-

(i). The applicants shall not tamper with the evidence during the trial.

(ii). The applicants shall not pressurize/ intimidate the prosecution witness.

(iii). The applicants shall appear before the trial court on the date fixed, unless personal presence is exempted.

(iv). The applicants shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are suspected.

(v). The applicants 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 them from disclosing such facts to the Court or to any police officer or tamper with the evidence.

9. In case of breach of any of the above condition, the Court below shall be at liberty to cancel bail of applicants in accordance with law.

Order Date :- 20.11.2023

Neeraj