

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10691 of 2023

Applicant :- Smt Shashibala

Opposite Party :- State of U.P.

Counsel for Applicant :- Braj Mohan Singh

Counsel for Opposite Party :- G.A., Ashish Kumar Singh

Hon'ble Nalin Kumar Srivastava, J.

1. A supplementary affidavit has been filed today in Court. It is taken on record. Let it be numbered by the Office.

2. Heard learned Counsel for the applicant, learned Counsel for the opposite party and learned AGA for the State and perused the record.

3. This application under Section 438 Cr.P.C. has been filed on behalf of the applicant - **Smt. Shashibala** seeking anticipatory bail in Case Crime No.291 of 2022, under Sections 420, 467, 468, 471, 406 & 120-B Police Station Ahmadgarh, District Bulandshahar.

4. It has been submitted by the learned Counsel for the applicant that applicant is innocent and has apprehension of her arrest in the above-mentioned case, whereas there is no credible evidence against her. The allegations levelled against the applicant are false. It is further submitted that it is a case of mere breach of contract but a criminal colour has been given to the matter. The investigation of the case is going on. It has been submitted that in case applicant is granted anticipatory bail, she shall not misuse the liberty of bail and would obey all conditions of bail.

5. *Per contra*, learned Counsel for the opposite party as well as learned A.G.A. vehemently opposed the prayer for anticipatory bail and argued that it is not a case of mere breach of contract but a wrongful gain of huge amount to the tune of more than 50 lacs has been made by the applicant in her favour. She has been the main culprit and mastermind of the whole crime. It is further submitted that the money has been transferred in the bank account of the applicant and her company, as per the evidence collected during the course of investigation. It is further submitted that co-accused Mohan Lal has been denied anticipatory bail by this Court by

rejecting Criminal Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No. 6902 of 2023.

6. In this matter, it has been alleged against the applicant that she along with other co-accused persons adduced the informant to make him joint account holder in the HPCL Petrol Pump and, on the said pretext, got deposited about Rs. 50,00,000/- in their different bank accounts and also in the account of the Company. In this regard, an agreement was also executed between them. Later on, it was revealed that the present applicant along with co-accused had prepared the forged papers of the company with intention to cheat the informant. It is also alleged that whenever the informant and other persons demanded their money, the applicant denied to repay the same. An F.I.R. was lodged in this connection and investigation started, which is still going on.

7. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has 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.

8. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant, all attending facts and circumstances of the case and the fact that allegations are serious in nature, without expressing any opinion on the merits of the case, in my view, it is not a fit case for anticipatory bail to the applicant. Prayer made in the application is refused.

9. The application is **rejected**.

Order Date :- 27.10.2023

Vijay