

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 10722 of 2023

Applicant :- Vinay Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Akhilendra Yadav

Counsel for Opposite Party :- G.A.,Amarnath Tripathi

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Diwan Saifullah Khan, Advocate holding brief of Sri Akhilendra Yadav, learned counsel for the applicant and Sri Amarnath Tripathi, learned counsel for the informant as well as Sri Ashutosh Srivastava, learned A.G.A. for the State and also perused the record.
3. The present anticipatory bail application has been filed on behalf of the applicant in F.I.R./Case Crime No. 619 of 2021, under Sections 419, 420, 467, 468, 471 of IPC, Police Station Cantt., District Varanasi, with a prayer to enlarge him on anticipatory bail.
4. As per prosecution story, the co-accused Vaibhav Singh is stated to have taken a loan of Rs.5 lakhs from Bandhan Bank on the basis of balance-sheet in the name of M/s Kanha Electronics which he got prepared through Mohit Singh and the applicant in the name of the informant. The said balance-sheet is stated to be forged as it was not signed by the informant, who happens to be the Chartered Accountant.
5. Learned counsel for the applicant has stated that the applicant is maliciously being prosecuted in the present case due to ulterior motive and has apprehension of his arrest. He has nothing to do with the said offence as alleged by the prosecution. Learned counsel has further stated that he is a bonafide person and he used to get several balance-sheet prepared from the informant himself. He was simply an accountant, who used to work as assistant and he has even worked before with the informant. The applicant had not prepared the said balance-sheet as it has been signed and affixed the seal on it by the informant himself. To show the bonafide of the applicant, learned counsel has placed reliance on the money transfer from the account of the applicant to the account of informant between 30.06.2021 to 17.12.2021 which has been filed as Annexure-3 of the affidavit annexed with anticipatory bail application.
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. It is further submitted that the applicant has no criminal history. In case, the anticipatory bail application of the applicant is allowed, he will not misuse the liberty and shall cooperate

with trial.

7. On the other hand, learned counsel for the informant as well as learned A.G.A. have vehemently opposed the prayer for grant of anticipatory bail on the ground that in addition to forging signatures, the applicant even affixed fake seal of the informant on balance-sheet as it was mentioned as ANURAG ASSOCIATES and not ANUGRAH ASSOCIATES. The forgery is evident at the face of it. Why would the informant prepare a fake seal of himself?

8. Considering the arguments advanced by the learned counsel for the parties and in view of the law laid down by the Apex Court in the case of "**Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC online SC 98**", the applicant is entitled to be granted anticipatory bail in this case.

9. Without expressing any opinion upon ultimate merits of the case either ways which may adversely affect the trial of the case, the anticipatory bail application of the applicant is **allowed**.

10. In the event of arrest of the applicant, **Vinay Singh** involved in the aforesaid case crime number, shall be released on anticipatory bail till the conclusion of trial on furnishing a personal bond with two sureties each in the like amount to the satisfaction of the Presiding Officer/Court Concerned, with the conditions that:-

- 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 previous permission of the court;
- iv. that 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;

11. In case of breach of any of the above conditions, the court concerned shall have the liberty to cancel the bail granted to the applicant.

12. It is made clear that observations made in granting anticipatory bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 2.11.2023
Siddhant