

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10802 of 2023

Applicant :- Varun Chaturvedi @ Vicky

Opposite Party :- State of U.P.

Counsel for Applicant :- Harsh Bardhan Choubey, Sr. Advocate

Counsel for Opposite Party :- G.A., Raghawendra Singh

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri I.K. Chaturvedi, learned Senior Advocate assisted by Sri Harsh Bardhan Choubey, learned counsel for the applicant, Sri Dinesh Kumar Gupta, Advocate holding brief of Sri Raghawendra Singh, learned counsel for the informant and Sri Shakil Ahmad, 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. 377 of 2023, registered under Sections 306, 406, 506 I.P.C., 10(1) and 23 of UP Regulation of Money Lending Act, 1976 at Police Station- Kotwali, District- Ballia with a prayer to enlarge him on anticipatory bail.
4. As per prosecution story, the applicant and other co-accused persons are stated to have duped the informant to the tune of Rs.50 lakhs in lieu of him providing a government job. Subsequent to it, the co-accused person Arpit Kumar Singh is stated to have demanded an interest of 5% on the said amount and later on escalated the demand to 10% and threatened him to cause his death, if he did not heed to the said demand. The said co-accused person is stated to have got the jewelry of daughter-in-law of the informant mortgaged at a private shop, as such, son of the informant committed suicide on 16.7.2023 at about 07:25 p.m.
5. Learned Senior Counsel for the applicant has stated that the applicant has been falsely implicated in this case. The main role has been assigned to co-accused person Arpit Kumar Singh who has already been enlarged on regular bail by the Co-ordinate Bench of this Court vide order dated 14.9.2023 passed in Criminal Misc. Bail Application No.40020 of 2023. The applicant is at better footing to co-accused Arpit Kumar Singh.

Learned Senior Counsel has further stated that later on in the suicide note it has come up that applicant had taken Rs.18 lakhs from him, but there is no evidence to substantiate the said allegation regarding the amount being withdrawn from any bank or being given through any negotiable instruments.

6. Learned Senior Counsel for the applicant has further stated that the ingredients of Section 306 I.P.C. do not stand fulfilled. The applicant has no criminal history to his credit. 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 Senior 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 co-accused person has been enlarged on regular bail and not on anticipatory bail, as such, the applicant is not entitled for anticipatory bail.

8. On due consideration to the arguments advanced by learned counsel for the parties as well as learned A.G.A. and considering the nature of accusations and antecedents of the applicant, 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- **Varun Chaturvedi @ Vicky** 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 :- 18.10.2023

Vikas

[Krishan Pahal, J.]