

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10983 of 2023

Applicant :- Archana Pandey

Opposite Party :- State of U.P.

Counsel for Applicant :- Anand Pati Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the material available on record.
2. This application for anticipatory bail has been filed by applicant - Archana Pandey in connection with Case Crime No.111 of 2020, under Sections 420, 447 IPC, Police Station Auraiya, District Auraiya.
3. At the very outset, it was brought to the notice of this Court that without getting rejected the anticipatory bail application from the Sessions Court, Auraiya, the present anticipatory bail application has been directly filed before the High Court and the reason thereof has been explained in paragraph 6 of the affidavit that since the Members of the Bar had been on prolonged and continuous strike, it was not possible to move anticipatory bail application before the Sessions Court and to get rejection order from there.
4. Learned A.G.A. has vehemently conceded this averment.
5. The reason disclosed in paragraph 6 of the affidavit filed in support of the anticipatory bail application and as stated by the learned counsel for the applicant, in the opinion of the Court, comes within the category of a special reason / circumstance under which the applicant may be permitted to move anticipatory bail application directly to this High Court without having any rejection order from the Court of Sessions. The application is well maintainable before this Court.
6. Initially, the owner of the property in question Janardan Dubey sold out one plot in favour of Aruna Pandey, but subsequently the same land was sold by Janardan Dubey aforesaid in favour of the

present applicant and one another. The informant suffered a huge loss and the boundary wall erected over the said plot was also damaged by the accused persons.

7. It is submitted by the learned counsel for the applicant that the applicant is innocent and she has apprehension of her arrest in the above-mentioned case, whereas there is no credible evidence against her. She has been falsely implicated into this matter. Allegations levelled against the applicant are false. The investigation of the case has been completed and charge-sheet has been submitted. It is further submitted that the applicant is a bonafide purchaser of the said land. She had absolutely no knowledge that the property which she is going to purchase from co-accused Janardan Dubey, has already been sold in favour of the informant. She has purchased the property after payment of requisite consideration amount and she has also invested a huge amount for the purchase of property. Applicant is a lady. Criminal antecedent of solitary case against her has been sufficiently explained. The applicant has been cooperative during the course of investigation. It is further submitted that no custodial interrogation is required in this matter from the applicant and as such she is entitled for anticipatory bail.

8. On the other hand, learned A.G.A. opposed the prayer for anticipatory bail.

9. Although charge-sheet has been submitted in the present matter, but in **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has settled the law on the subject finally by holding that the anticipatory bail need not be of limited duration invariably. In appropriate case, it can continue upto conclusion of trial.

It has been further held therein that anticipatory bail granted can, depending on the conduct and behavior of the accused, continue after filing of the charge sheet till end of trial.

It has been further held by the Hon'ble Apex Court 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.

10. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, in my view, it is a fit case for anticipatory bail to the applicant till end of the trial in the matter.

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

12. In the event of arrest of the applicant in the aforesaid case crime, she shall be released on anticipatory bail till end of the trial on her furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the Court concerned with the following conditions :-

(i) The applicant shall make herself available before the court concerned on the date fixed in the matter;

(ii) 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 / her from disclosing such facts to the Court or to any police officer;

(iii) The applicant shall not leave India without the previous permission of the Court and if she has passport, the same shall be deposited by her before the S.S.P./S.P. Concerned.

13. In case of default of any of the conditions, same may be a ground for cancellation of protection granted to the applicant.

Order Date :- 3.11.2023

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