

Court No. - 78

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S
438 CR.P.C. No. - 11023 of 2023

Applicant :- Neelesh Singh

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

Counsel for Applicant :- Ramesh Kumar Shukla, Praveen Kumar
Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Raj Beer Singh, J.

1. Heard learned counsel for the applicant, 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. 342 of 2020, under Sections 342, 365, 389, 120-B I.P.C. and Section 7/13 of Prevention of Corruption Act, Police Station Kothi, District Barabanki with the prayer that in the event of arrest, applicant may be released on bail.
3. It has been argued by the learned counsel for the applicant that applicant is innocent and he has an apprehension that he may be arrested in the above-mentioned case, whereas there is no credible evidence against him. As per prosecution version, the informant was forcibly picked-up by co-accused constable Jamal Ashraf and Ashish Tiwari and he was taken to the residence of one Pawan Kumar Verma and was also brought to the police station and there he was threatened and demanded an amount of Rs. 3 lacs by threatening that if he did not pay the amount, he would be falsely implicated in some Narcotic case. Learned counsel submitted that there is no such allegation against the applicant that he was involved in picking-up of the victim or extending any threat or demanding any money. The only allegation against the applicant is that the applicant has also met with the victim and stated that how he has been come into the net of co-accused persons. The allegation that the

extortion amount of Rs. 3 lacs was given to the applicant is wholly false. The initial complaint submitted by the victim, was also referred, wherein, applicant is not named and that after inquiry, applicant was falsely implicated in this case. Applicant is a constable in police and there is no possibility of fleeing away from the justice. At the time of alleged incident, applicant along with the Incharge of the police station was in patrolling duty. The applicant undertakes to co-operate during investigation and trial and he would appear as and when required by the investigating agency or Court. It has been stated that in case, the applicant is granted anticipatory bail, he shall not misuse the liberty of bail and will co-operate with the investigation and would obey all conditions of bail.

4. Learned A.G.A. has opposed the application for anticipatory bail and submitted that in the incident in question, an innocent victim was picked-up by the police officials and he was threatened that in case, he did not pay the amount of Rs. 3 lacs, he would be implicated in some drug case and an amount of Rs. 3 lacs was extorted from him. The applicant was involved in the incident and that alleged amount of Rs. 3 lacs was also given to the applicant and later on due to intervention of the local M.L.A., accused persons have returned the said amount. Referring to the facts of the matter, it was submitted that applicant-accused is not entitled for bail.

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. Considering facts of the matter, it appears that the police officials, including applicant were running an extortion racket and in the instant case, an innocent person was picked-up by the police officials and he was threatened and terrorized and an amount of Rs. 3 lacs was extorted from him by threatening that in case, he did not pay the said amount, he would be implicated in some false drugs case. As per prosecution version, alleged extortion amount was handed over by the victim to the applicant.

7. Considering the settled principle 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 on merit of the case, no case for anticipatory bail is made out. The instant anticipatory bail application filed on behalf of the applicant **Neelesh Singh** is hereby **rejected**.

Order Date :- 13.10.2023
Anand