

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11162 of 2023

Applicant :- Angad

Opposite Party :- State of U.P.

Counsel for Applicant :- Pawan Kumar, Satish Kumar Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. This application has been moved on behalf of the applicant - **Angad** seeking anticipatory bail in Case Crime No. 262 of 2020, under Sections 419, 420, 409 IPC, Police Station Kothibhar, District Maharajganj.
2. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
3. It is submitted by the learned counsel for the applicant that applicant is innocent and he has apprehension of arrest in the above-mentioned case, whereas there is no credible evidence against him. Allegations levelled against the applicant are false. It is further submitted that due to inadvertent mistake some amount was transferred in favour of Sethai, the deceased, but as soon as the mistake was discovered, the said amount was given to Ramroop, the son of the deceased Sethai and it was never misused or misappropriated by the present applicant, who happens to be the Gram Pradhan. So far as the deposit of Rs. 7798/- in the bank account of the applicant is concerned, it was also due to the mistake of computer system and as soon as the error was discovered, the said amount was deposited by the applicant in favour of concerned government department. After completion of investigation, charge sheet has been submitted in the matter. It is also submitted that earlier the applicant had approached this Court through Criminal Misc. Anticipatory Bail Application No. 7030 of 2021 in which vide order dated 24.3.2021 the applicant had been granted protection till submission of police report under Section 173(2) CrPC and the said liberty has not been misused by him. Applicant has no criminal history to his credit. No process under Sections 82 and 83 CrPC has been issued against the applicant and the applicant has not been declared absconder. In case applicant is granted anticipatory bail, he will not misuse the liberty of bail and

would obey all conditions of bail.

4. Learned A.G.A. opposed the prayer for anticipatory bail.

5. I have considered the rival submissions made by the learned counsel for the parties.

6. From the perusal of the record, it reveals that some amount was transferred in the account of the beneficiary Sethai, who was deceased and an amount of Rs. 7798/- was also deposited in the bank account of the present applicant. F.I.R. was lodged and after investigation charge sheet has been submitted. It also reveals that after submission of charge sheet in the matter, no custodial interrogation appears to be required and the applicant has been cooperative during investigation.

7. 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.

8. Considering the settled principles of law regarding anticipatory bail, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion on the merits of the case, in my view, it is a fit case for anticipatory bail to the applicant till the end of trial.

9. The application is **allowed** accordingly.

10. In the event of arrest of the applicant, he shall be released on

anticipatory bail on his 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 himself available before the Court concerned on the date fixed in the matter and will cooperate in the trial.

(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 office.

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

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

Order Date :- 18.10.2023

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