

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11192 of 2023

Applicant :- Pushpinder Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Jyoti Kumar Singh, Sr.
Advocate, Vishakha Pande

Counsel for Opposite Party :- G.A., Manoj Kumar Patel, Rahul
Srivastava

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Rakesh Pande, learned Senior Advocate assisted by Ms. Vishakha Pande, learned counsel for the applicant, Sri Rahul Srivastava, learned counsel for the informant and Sri Anit Kumar Shukla, 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.40 of 2023, registered under Sections 420, 467, 468, 471, 406, 504, 506 I.P.C. at Police Station- Friends Colony, District- Etawah with a prayer to enlarge him on anticipatory bail.
4. As per prosecution story, the applicant and co-accused person Narendra Sidhar are stated to have purchased paddy to the tune worth Rs.12 crore in the year 2020. Gradually, the applicant is stated to have returned about Rs.9.41 crore to the informant but had retained the rest amount citing the poor standard of the paddy supplied to him. The applicant is stated to have even issued five cheques which were bounced, and subsequently, issued ten cheques which could not be honored owing to the account of the applicant being blocked. As such, the applicant is stated to have usurped the amount of Rs.2.59 crore of the informant and the FIR was instituted against him on 4.2.2023.
5. Learned Senior Counsel for the applicant has stated that the matter is civil in nature and money suit could have been filed by the informant rather he has taken recourse to the present FIR. Learned Senior Counsel has further stated that only Rs.60 lakhs remains towards the informant which has been retained by the applicant owing to the poor standard of paddy. There is one criminal history of the applicant as Case Crime No.351 of 2021

instituted at Police Station Mundha Pandey, District Moradabad, in which the applicant has been granted protection till the disposal of discharge application of the applicant vide order dated 13.3.2023 of this Court passed in Application U/S 482 Cr.P.C. No.2315 of 2023, as such, the applicant has no previous criminal history to his credit.

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. 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 issuance of ten cheques, which got dishonored owing to the blocking of the account, was a deliberate attempt by the applicant to usurp the said amount. Learned counsel for the informant has stated that the proceedings under Section 138 NI Act have been initiated against the applicant, as such, he 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 taking into consideration the factum of cases under Section 138 NI Act being pending against the applicant and also that the matter being of civil in nature, 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- **Pushpinder Singh** 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 :- 30.10.2023

Vikas

[Krishan Pahal, J.]