

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11135 of 2023

Applicant :- Dharmveer Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Sachin Kanaujiya, Shivam Kanojiya

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. This application has been moved on behalf of the applicant - Dharmveer Singh seeking anticipatory bail in Case Crime No.37 of 2020, under Sections 420, 467, 468, 471 IPC and Section 3/10 U.P. Public Examination (Prevention of Unfair Means) Act, 1998, Police Station, Tajganj, District Agra.

2. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

3. It is alleged in the F.I.R. that one Jitendra Singh was appearing as imposter in place of present applicant in the physical test of U.P. Police Constable Examination. F.I.R. was lodged on 15.1.2020 and investigation started, which is going on.

4. It is submitted by the learned counsel for the applicant that the applicant is innocent and he has apprehension of his arrest in the above-mentioned case, whereas there is no credible evidence against him. Allegations levelled against the applicant are false. He has been falsely roped in this matter due to village enmity. It is further submitted that the applicant has no concern with the alleged incident. At the time of examination, he was present at his village. He did not appear in the examination. It is further submitted that charge-sheet against other co-accused persons named in the F.I.R. has been submitted whereas investigation against the applicant is still going on. During the course of investigation, no credible evidence has been collected by the I.O. so far against the applicant. It is further submitted that co-accused, who were arrested on spot and against whom charge-sheet has been submitted, were granted regular bail from the court concerned. Applicant is cooperating with the investigation. He has no criminal history to his credit and as such he is entitled for anticipatory bail in the matter.

5. Per contra, learned A.G.A. and learned counsel for the informant vehemently opposed the prayer for anticipatory bail and submitted that ample evidence has been collected during the course of investigation so far against the applicant. It is further submitted that co-accused Jitendra Singh as a proxy candidate was appearing in the Examination in place of present applicant and his regular bail application has been rejected by the Sessions Court. From the perusal of record as well as case diary, it cannot be said at this stage that the applicant has been falsely implicated in this case. Offence is of serious nature. There is no possibility of false implication of the accused.

6. In Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1, the Hon'ble Apex Court has held 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.

7. 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 not a fit case for anticipatory bail to the applicant till the end of trial. The prayer made in the application is refused.

8. The anticipatory bail application is rejected.

Order Date :- 17.10.2023

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