

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11172 of 2023

Applicant :- Pramod Kumar And Another

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

Counsel for Applicant :- Virendra Kumar Jaiswal, Jagdish Singh

Counsel for Opposite Party :- G.A., Satyam Narayan

Hon'ble Krishan Pahal, J.

1. Heard Sri Virendra Kumar Jaiswal, learned counsel for the applicants and Sri Satyam Narayan, learned counsel for the informant as well as Sri D.K. Singh, learned A.G.A. for the State and also perused the material available on record.

2. The present anticipatory bail application has been filed on behalf of the applicants in F.I.R./Case Crime No. 171 of 2023, under Sections 420, 406, 506, 386, 504 IPC, Police Station Pallavpuram, District Meerut, with a prayer to enlarge them on anticipatory bail.

3. As per prosecution story, the applicants and their father Khadak Singh are stated to have agreed to sell their land to the company of the informant and had taken an amount of Rs. 5 crores 50 lakhs in it. The applicants and their father are stated to have neither issued the sale deed of the said land nor returned the said amount due.

4. Learned counsel for the applicants has stated that the applicants are maliciously being prosecuted in the present case due to ulterior motive and have the apprehension of their arrest. The applicants have nothing to do with the said offence as alleged by the prosecution. Learned counsel has next stated that only Rs. 90 lakhs has been transferred to the account of the applicants and the rest has been falsely shown by the informant, as such, large amount of money i.e. 4 crores 60 lakhs cannot be transferred in cash. It is further stated that already a civil suit was filed by the informant as O.S. No. 1440 of 2022 pending before Civil Judge (Senior Division) Meerut. As the applicant was not granted any positive order in the said civil suit, the present FIR has been instituted on 5.8.2023. Learned counsel has next stated that the FIR itself is delayed. The case of civil nature has been converted into criminal one by the informant.

5. Several other submissions have been made on behalf of the applicants to demonstrate the falsity of the allegations made against them. The circumstances which, as per counsel, led to the false implication of the applicants have also been touched upon at length. It is further submitted that the applicants have no criminal antecedents. In case, the anticipatory bail application of the applicants is allowed, they will not misuse the liberty and shall cooperate with trial.

6. On the other hand, learned A.G.A. and learned counsel for the informant have vehemently opposed the prayer for grant of anticipatory bail on the ground that the applicants had filed fictitious suit no. 151 of 2022 on 20.9.2022 and taken an ex-parte injunction in the said case, as such, the applicants are not entitled for anticipatory bail.

7. On due consideration to the arguments advanced by the learned counsel for the parties, the present matter seems to be of civil nature coupled with the fact that the suit no. 1440 of 2022 is pending before the Court of Civil Judge (Senior Division), Meerut. In view of the law laid down by the Apex Court in the case of "Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC online SC 98", the applicants are entitled to be granted anticipatory bail in this case.

8. Without expressing any opinion upon ultimate merits of the case either ways which may adversely affect the trial of the case, the anticipatory bail application of the applicants is allowed.

9. In the event of arrest of the applicants, Pramod Kumar and Vikram Singh, involved in the aforesaid case crime number, shall be released on anticipatory bail till the conclusion of trial on furnishing a personal bond with two sureties each in the like amount to the satisfaction of the Presiding Officer/Court Concerned, with the conditions that:-

- i. that the applicants shall make themselves available for interrogation by a police officer as and when required;
- ii. that the applicants 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 applicants shall not leave India without previous permission of the court;
- iv. that the applicants shall not tamper with the evidence during the trial;
- v. that the applicants shall not pressurize/ intimidate the prosecution witness;
- vi. that the applicants shall appear before the trial court on each date fixed

unless personal presence are exempted;

10. In case of breach of any of the above conditions, the court concerned shall have the liberty to cancel the bail granted to the applicants.

11. It is made clear that observations made in granting anticipatory bail to the applicants shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 31.10.2023

Shalini