

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11115 of 2023

Applicant :- Sandeep Singh

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

Counsel for Applicant :- Sunil Kumar Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. This application has been moved on behalf of the applicant **Sandeep Singh** seeking anticipatory bail in Case Crime No. 427 of 2010, under Sections 420, 467, 468, 471, 120-B IPC, Police Station Jansath, District Muzaffar Nagar.

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

3. It has been submitted by the learned counsel for the applicant that 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. It is also submitted that the arrest of the applicant in this matter was stayed by this Court in Criminal Misc. Writ Petition No. 16155 of 2011 vide order dated 23.8.2011. It is also submitted that the applicant had no knowledge of submission of charge sheet in the matter, as no process was served upon him and at present no order to issue process under Sections 82/83 CrPC has been issued against him and he has not been declared proclaimed offender. The investigation of the case has been completed and charge sheet has been filed. Applicant has no criminal history to his credit. It has been submitted that in case applicant is granted anticipatory bail, he shall not misuse the liberty of bail and would obey all conditions of bail.

4. Learned A.G.A. opposed the prayer for anticipatory bail and submitted that charge sheet against the applicant was submitted in the year 2011. The applicant never appeared before the trial court and he has been absconding for a period of 12 years. He has misused the liberty granted in his favour by this Court.

5. In this matter, from the perusal of the record it appears that the

main accused Mohd. Ajmal Khan, the area Lekhpal, in collusion with the retired Registrar Murarilal made some fabrication in the relevant revenue registers and some new pages were pasted. An agreement to sale was executed by the present applicant in favour of Ravindra Chauhan and that page was also pasted in the fabricated pages. F.I.R. was lodged and after investigation in the year 2011 charge sheet has been submitted. From the perusal of the record it appears that at present though an order to issue non-bailable warrant is operative against the applicant, as per the copy of the order sheets submitted by the applicant, but since he has been summoned by the trial court in the year 2011 and he did not respond to the process issued by the Court to him, and as such, he was never cooperative in the trial.

6. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has settled the controversy finally by holding 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.

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, all attending facts and circumstances of the case and the fact that allegations are serious in nature, without expressing any opinion on the merits of the case, in my view, it is not a fit case for anticipatory bail to the applicant. Prayer made in the application is refused.

8. The application is **rejected**.

9. However, it is observed that the bail application of the

applicant, if moved, shall be considered and decided by the Court concerned in terms of the law laid down by the Hon'ble Apex Court in **Satender Kumar Antil vs. Central Bureau of Investigation and another, 2022 SCC OnLine SC 825.**

Order Date :- 17.10.2023

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