

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11393 of 2023

Applicant :- Aftab Ahmad

Opposite Party :- State of U.P.

Counsel for Applicant :- Javed Alam, Dheeraj Kumar
Tiwari, Mohd Shaban Ahmad, Virendra Kumar Jaiswal

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised. Second supplementary affidavit filed today by the learned counsel for the applicant is taken on record.
2. Heard Sri Virendra Kumar Jaiswal, learned counsel for the applicant and Sri R.P. Patel, learned A.G.A. for the State and perused the material placed on record.
3. This application has been filed on behalf of the applicant with a prayer to enlarge him on anticipatory bail in Case Crime No.440 of 2022, U/S 419, 420, 467, 468, 469, 471, 120-B of IPC and Sections 4/10 of U.P. Public in General Examination Act and Section 3 of Mudra Parichalan Act, Police Station Naini, District Prayagraj.
4. As per prosecution story, the police had found nine persons involved in appearing on behalf of the other persons by impersonation in the entrance examination for Lekhpal on 24.08.2022. The applicant is stated to be the Manager of the Institution where the said persons were appeared as solvers.
5. Learned counsel for the applicant has stated that the applicant is maliciously being prosecuted in the present case due to ulterior motive and has apprehension of his arrest. He has nothing to do with the said offence as alleged by the prosecution. Learned counsel has further stated that he is 67 years old and a bed ridden person. He is suffering from paralysis. The medical reports have been annexed as Annexure No.3 of the affidavit filed along with anticipatory bail application. In the MRI report, diffuse cerebral atrophy with acute infarct in right half of medula has been observed. Learned counsel has further stated that the applicant was not the manager of the institution rather was a secretary in it.

Criminal history of one case assigned to the applicant stands explained by means of supplementary affidavit as he has been acquitted in the said case vide order dated 05.07.2011.

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. It is further submitted that investigation is going on and the applicant is ready to cooperate in it. In case, the anticipatory bail application of the applicant is allowed, he will not misuse the liberty and shall cooperate with investigation/trial.

7. On the other hand, learned A.G.A. has vehemently opposed the prayer for grant of anticipatory bail on the ground that the applicant was the main accused person who was involved in the said fraud of solvers appearing instead of the candidates, as such, he is not entitled for anticipatory bail.

8. After hearing the learned counsel for the parties and taking into consideration the fact that the applicant having held the important portfolio in the institution where nine persons were found appearing on behalf of other candidates by police. The arguments tendered at bar pertain to regular bail application and cannot be agitated u/s 438 Cr.P.C., therefore, I do not find it a fit case to enlarge the applicant on anticipatory bail.

9. In view of the above, the instant anticipatory bail application is **rejected**.

(Justice Krishan Pahal)

Order Date :- 7.11.2023
Siddhant