Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 11557 of 2023

Applicant :- Suresh Chandra Sharma
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Kamlesh Kumar Dwivedi,Gaurav Dwivedi
Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the material available on record.

2. Apprehending his arrest, the present anticipatory bail application has been filed on behalf of the applicant - **Suresh Chandra Sharma** in Case No. 693 of 2010 (State Vs. Bhure Lal and others) arising out of Case Crime No.06 of 2010, under Sections 465, 467, 468, 471, 420, 504, 506 I.P.C., Police Station Mansukhpura, District Agra, with a prayer to enlarge him on anticipatory bail.

3. As per prosecution case, a forged sale deed was executed by accused persons causing a huge monetary loss to the informant and the present applicant was a scribe of the sale deed. F.I.R. was lodged and after investigation, charge-sheet was submitted into the matter.

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 her. He has been falsely implicated into this matter. Allegations levelled against the applicant are false. It is further submitted that the applicant is only the scribe of the impugned sale deed and no consideration amount has been passed in his favour nor he has made any monetary gain in his favour. He is not a vendor or vendee of the alleged sale deed. He has been granted a license for the work of scribe and he could not be a beneficiary of the alleged transaction at all. It is further submitted that although charge sheet was submitted in this matter in the year 2010, but the the applicant has been cooperative during the course of investigation and no process under section 82 or 83 CrPC has been

issued against him and he has not been declared proclaimed offender by any court. It is further submitted that no custodial interrogation is required in this matter from the applicant. Applicant has no criminal antecedent and as such he is entitled for anticipatory bail.

5. Per contra, learned A.G.A. opposed the prayer for anticipatory bail, but however could not dispute this fact that the applicant is only a scribe of the sale deed and he is neither the vendor nor the vendee and no consideration amount has been passed in his favour.

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 and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, in my view, it is a fit case for anticipatory bail to the applicant till end of the trial in the matter.

8. The anticipatory bail application is **allowed.**

9. In the event of arrest of the applicant in the aforesaid case crime, he shall be released on anticipatory bail till end of the trial on his furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the Court concerned with

the following conditions :-

(i) The applicant shall make himself available before the court concerned on the date fixed in the matter;

(ii) 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 / her from disclosing such facts to the Court or to any police officer;

(iii) The applicant shall not leave India without the previous permission of the Court and if he has passport, the same shall be deposited by him before the S.S.P./S.P. Concerned.

10. In case of default of any of the conditions, same may be a ground for cancellation of protection granted to the applicant.

Order Date :- 18.10.2023
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Digitally signed by :-
SANDEEP SHARMA
High Court of Judicature at Allahabad