

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11829 of 2023

Applicant :- Ramesh Chandra Singh

Opposite Party :- State Of U.P.And Another

Counsel for Applicant :- Harsh Kumar Anand

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. This application has been moved on behalf of the applicant - **Ramesh Chandra Singh** seeking anticipatory bail in Case Crime No. 467 of 2017, under Sections 409, 477A, 120-B IPC, Police Station Gahmar (EOW), District Ghazipur.

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

3. It is submitted by the learned counsel for the applicant that applicant is innocent and he has apprehension of arrest in the above-mentioned case, whereas there is no credible evidence against him. Allegations levelled in the F.I.R. against M/s Om Sai Construction and Suppliers Company are totally false. It is further submitted that as a matter of fact the construction company of the applicant is a co-contractor and has no concern with the tourist department. The work allotted by the Uttar Pradesh Rajkiya Nirman Nigam Limited has been performed by him and he was not answerable in any way to the tourist department. The applicant is not concerned with any payment made for the performance of the work. It is also submitted that the work assigned to him has been done only at Maan Kamaakhya Dham Mandir. It is also submitted that the applicant did not work at any site nor supplied any material and even any payment has also not been made to him. It is further submitted that similarly placed co-accused Lalsa Singh has been granted anticipatory bail on 18.11.2022 vide Criminal Misc. Anticipatory Bail Application No. 10833 of 2022 and on the same pattern some other co-accused persons having identical role have also been granted anticipatory bail. Likewise co-accused Akhilesh Kumar Singh, who also happens to be the Contractor, has also been granted anticipatory bail by this Court on 10.8.2023 vide Criminal Misc. Anticipatory Bail Application No. 8545 of 2023 and the applicant's case also rests upon same footing. It is also

submitted that the applicant has no criminal history to his credit. After completion of investigation, charge sheet has been submitted in the matter. During course of investigation he has been cooperative with the same. No process under Sections 82 and 83 CrPC has been issued against the applicant and the applicant has not been declared absconder. In case applicant is granted anticipatory bail, he will not misuse the liberty of bail and would obey all conditions of bail. It is lastly submitted that the applicant is a cancer patient which is at final stage.

4. Learned A.G.A. opposed the prayer for anticipatory bail and submitted that a huge amount of public fund has been embezzled by the applicant in collusion with other co-accused persons. Sufficient and ample evidence has been collected against the applicant during investigation.

5. I have considered the rival submissions made by the learned counsel for the parties.

6. As per prosecution story, Uttar Pradesh Rajkiya Nirman Nigam Limited allotted the beautification work at district Ghazipur worth rupees several lakhs with respect to the construction to the company of the applicant. It also reveals that the applicant is said to be not undertaken the work allotted to him and he also usurped the public money. F.I.R. was lodged and investigation started, which culminated into charge sheet. It also reveals that earlier the applicant alongwith other co-accused persons had approached this Court vide Criminal Misc. Writ Petition No. 22722 of 2017 wherein vide order dated 26.10.2017 interim protection was granted to them till submission of police report under Section 173(2) CrPC and the said liberty has not been misused by the present applicant. The I.O. has also recorded the statement of the applicant under Section 161 CrPC.

7. Though charge sheet has been submitted into the matter yet in **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has settled the law on the subject finally by holding that 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.

8. Considering the settled principles of law regarding anticipatory bail, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion on the merits of the case, in my view, it is a fit case for anticipatory bail to the applicant till the end of trial.

9. The application is **allowed** accordingly.

10. In the event of arrest of the applicant, he shall be released on anticipatory bail 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 and will cooperate in the trial.

(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 office.

(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.

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

Order Date :- 6.11.2023

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