

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11564 of 2023

Applicant :- Towheed Khan @ Mohd. Towheed Khan

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Jitendra Narayan Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav,J.

1. Heard learned counsel for the applicant as well as the learned AGA and perused the material available on record.

2. Present Anticipatory Bail Application has been filed with the prayer to grant anticipatory bail to the applicant in Case Crime No. 0068 of 2023, under Sections 452, 34, 386, 504, 506 IPC, P.S. Kotwali Katra, District Mirzapur, during the pendency of trial.

3. As per prosecution version, on 08.03.2023, applicant, who is stated to be constable, came at the Almirah shop of the informant and asked the informant that he is in need of six almirah for Government work and when amount was asked by the informant he was threatened for dire consequences. It is further alleged that after five to six days, when the informant was coming from hospital, applicant is said to have stopped the informant and abused him and again threatened him.

4. It is contended by learned counsel for the applicant that applicant is innocent and has been falsely implicated in the present case. It is further submitted that the allegations levelled in the FIR are absolutely false, frivolous and bogus. There is no evidence to connect the applicant with the alleged crime. The applicant is under apprehension of imminent arrest. In case the applicant is released on bail, he would not misuse the liberty of bail and would cooperate with the trial.

5. On the other hand, Learned AGA appearing for the State submitted that applicant being a Head Constable of the same Police Station where the present FIR has been lodged is not cooperating with the investigation, and there is reported criminal history of the applicant, therefore, no case for anticipatory bail is made out.

6. Number of arguments were advanced by learned counsel for the applicant to demonstrate the falsity of the accusation against the applicant by the informant. It is further submitted that on the material collected during investigation no offence under Section 386 IPC is made out against the applicant. Further, during argument, learned counsel for the applicant has also submitted that except Section 386 IPC, the maximum punishment for the offences is below seven years and therefore, prays that in case the applicant approaches the court below and applies for bail, the court below be directed to consider the bail application in the light of the judgement passed by Supreme Court in **Satender Kumar Antil Vs Central Bureau of Investigation and another, (2021) 10 SCC 773**.

7. Having heard learned counsel for the parties and upon perusal of material brought on record as well as complicity of accused, I do not find it a fit case for grant of anticipatory bail.

8. Accordingly, this application has no force and is accordingly dismissed. Applicant is directed to surrender before Trial Court and to move an application for bail. In case such an application is filed by applicant, Trial Court is directed to decide the same expeditiously in accordance with law, considering the judgment passed by Supreme Court in **Satender Kumar Antil Vs Central Bureau of Investigation and another, (2021) 10 SCC 773**.

Order Date :- 30.10.2023

RavindraKSingh