

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11535 of 2023

Applicant :- Smt Shashi Yadav

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Babu Lal Ram, Rachana Singh

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. This application has been moved on behalf of the applicant **Smt. Shashi Yadav** seeking anticipatory bail in Case Crime No. 314 of 2018, under Sections 420, 409, 467, 468, 471, 120-B IPC, Police Station Civil Lines, District Moradabad.

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 she has apprehension of her arrest in the above-mentioned case, whereas there is no credible evidence against her. Allegations levelled against the applicant are false. It is also submitted that the applicant is a lady and had no knowledge about the alleged offence and the offence, if any, has been committed by the main accused Anil Kumar Mehrotra. It is also submitted that the applicant has absolutely no concern with the alleged offence. The investigation of the case has been completed and charge sheet has been filed. It has been submitted that in case applicant is granted anticipatory bail, she will 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 it is nowhere explained on behalf of the applicant that how a huge amount of more than Rupees Ten Lakhs were deposited in the bank account of the applicant and why the same was not returned by her to the concerned department but she at the same time enjoyed the said amount deposited in her bank account. Ample and sufficient evidence has been collected against the applicant during course of investigation.

5. In this matter, from the perusal of the record it reveals that a huge amount of public fund was embezzled by the main accused

Anil Kumar Mehrotra, who was working as revenue clerk in the revenue department and several persons got benefited by the act of the embezzlement and manipulation of the main accused Anil Kumar Mehrotra and Rs. 10,90,755/- was deposited in the bank account of the present applicant as the beneficiary of the amount of public money which is said to be embezzled. F.I.R. was lodged and investigation started, which culminated into charge sheet. It also reveals from the perusal of the record that an application U/S 482 No. 13036 of 2020 was moved by the present applicant before this Court which was disposed of vide order dated 8.12.2020 wherein it was directed that the applicant shall be at liberty to move discharge application within one month from the date of said order passed in the said application and the said application was to be disposed of by the Court concerned expeditiously in accordance with law and the applicant was granted protection for a period of five months from the date of the said order. It is fairly conceded by the learned counsel for the applicant that no discharge application has been moved by the applicant.

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. In the last, learned counsel has urged that direction for expeditious disposal of bail application of the applicant be given.

10. Hence, it is observed that in case applicant surrenders before the court below and applies for bail, the same shall be considered and decided 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 :- 30.10.2023

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