

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11684 of 2023

Applicant :- Kamal Aggarwal

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Swetashwa Agarwal, Irfan
Chaudhary, Srijan Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Supplementary affidavit filed today is taken on record.
3. Heard Sri Srijan Pandey, learned counsel for the applicant, Sri V.K.S. Parmar, learned A.G.A. for the State and perused the material placed on record.
4. The present application for anticipatory bail has been filed for anticipatory bail in Case Crime No.543 of 2023, under Sections 420, 406 and 120B IPC, Police Station Nandgram, District Ghaziabad, during the pendency of trial.
5. As per prosecution story, the applicant in collusion with co-accused persons, namely, Gandharv Chaudhary and one Sangeeta Tyagi, is stated to have duped the informant to the tune of Rs.30,76,500/- on the pretext that he shall be provided a property worth crores of rupees. Rs.25 lakhs are stated to have been transferred to the account of the applicant.
6. Learned counsel for the applicant has submitted that the applicant has been falsely implicated in the present case. The main accused, if any, is Gandharv Chaudhary and not the applicant. He has been made a scapegoat in the said incident. Learned counsel has further stated that the applicant has transferred about Rs.9 lakhs to the account of co-accused person Gandharv Chaudhary as is evident from annexure no.4 to the affidavit accompanying the anticipatory bail application and also annexure no.-SA-1 filed with the supplementary affidavit today. The offence committed, if any, is by the co-accused person Gandharv Chaudhary. The applicant is the resident of Dehradun, as such there is no possibility of him coming all the way to Ghaziabad and committing the said offence. His account is also at a bank at Dehradun. 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.

7. Per contra, learned A.G.A. has opposed the anticipatory bail application on the ground that Rs.25 lakhs have been transferred through RTGS to the account of the applicant which categorically indicates his involvement in the said crime. What transpired between the co-accused persons has no concern with the said offence as the informant himself has been duped of his hard earned money.

8. After hearing learned counsel for the parties and taking into consideration the fact that Rs.25 lakhs have been transferred through RTGS to the account of the applicant and no property has been transferred to the informant. The arguments tendered at Bar pertain to regular bail application. They cannot be agitated at the stage of 438 Cr.P.C. The present anticipatory bail application is hereby found devoid of merits and is accordingly **rejected**.

9. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of anticipatory bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 6.11.2023

Ravi Kant

(Krishan Pahal, J.)