

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11797 of 2023

Applicant :- Anil Kumar Singh

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

Counsel for Applicant :- Amit Kumar Singh, Shesh Narain
Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. Compliance affidavit filed today on behalf of the State is taken on record.
2. In compliance of the direction given by this Court on 7.11.2023, Sanjay Kumar Singh, Investigating Officer of the case is present before the Court.
3. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
4. This application has been moved on behalf of the applicant - **Anil Kumar Singh** seeking anticipatory bail in Case Crime No.52 of 2021, under Sections 406, 420, 467, 468, 471, 120-B IPC, Police Station Sector-58, Noida, District Gautam Budh Nagar.
5. Named accused persons Pankaj and Adarsh had taken a huge amount of money from the informant on the false pretext of providing admission in M.B.B.S. course in Govt. College, Banda, but the informant did not get the admission. F.I.R. was lodged on 9.2.2021 and investigation started, which is going on.
6. At the very outset it is informed that the matter has been converted into Section 406, 420, 467, 468, 471, 120-B I.P.C. wherein the maximum period of imprisonment has been provided for life and that is why no notice under Section 41-A Cr.P.C. was given to the accused applicant.
7. It has been 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 against the applicant are false. Investigation is going on in the matter. It is further

submitted that the applicant is not named in the F.I.R. No money was handed over to him in cash or through electronic transaction by the informant or any other person. When co-accused persons of this case were arrested by the police, name of the present applicant came to surface. Incriminating articles relating to this case have been recovered from pointing out of co-accused Vikram and Sunil and nothing has been recovered from the possession or place under the control of the applicant. Criminal antecedents of the applicant have been sufficiently explained. He is cooperating with the investigation of the case. It is further submitted that the applicant is engaged in mineral water business and he has absolutely no concern with the alleged fraud committed by other co-accused persons. It is further submitted that the applicant is ready to cooperate with the investigation. It is further submitted that no custodial interrogation is required in this matter from the applicant and as such, he is entitled for anticipatory bail. In case applicant is granted anticipatory bail, he shall not misuse the liberty of bail and would obey all conditions of bail.

8. On the other hand, learned A.G.A. has vehemently opposed the prayer for anticipatory bail, but however could not dispute this fact that criminal history of the applicant has been sufficiently explained and he is cooperating with the investigation of the case.

9. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has held 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.

10. In **Siddharth Vs. State of Uttar Pradesh & Another, (2022) 1 Supreme Court Cases 676**, the Hon'ble Apex Court has held that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction

must be made between the existence of the power to arrest and the justification for exercise of it. If arrest is made routine, it can cause incalculable harm to the reputation and self-esteem of a person. If the Investigating Officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation, then there is no compulsion on the officer to arrest the accused.

11. 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 filing of police report under Section 173(2) Cr.P.C. before the competent Court.

12. The application is **allowed** accordingly.

13. 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 Station House Officer of the police station concerned with the following conditions:-

(i) The applicant shall make himself available for interrogation by a police officer as and when required.

(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.

14. In case of default of any of the conditions, the Investigating Officer shall be at liberty to file appropriate application for cancellation of interim protection granted to the applicant.

Order Date :- 8.11.2023

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