

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 11760 of 2023

Applicant :- Ritesh Kumar Yadav And 2 Others

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

Counsel for Applicant :- Kamlesh Shrama, Saroj Kumar Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised. Supplementary affidavit filed by learned counsel for the applicants is taken on record.
2. Heard Sri Saroj Kumar Dubey, learned counsel for applicants as well as Sri V.K.S. Parmar, learned A.G.A. for State and also perused the material available on record.
3. The present application for anticipatory bail has been filed for protection to the applicants **Ritesh Kumar Yadav, Bhanu Pratap Singh and Satish Yadav** in regard to FIR/Case Crime No. 465 of 2023, under Sections 419, 420, 467, 468, 471 I.P.C., P.S.- Kotwali, District- Ghazipur.
4. As per prosecution story, the applicants are stated to have got a job as Assistant Teacher on the basis of an interview taken up by the Committee Management. The applicant no. 1 was appointed vide order dated 17.5.2017, applicant no. 2 was appointed vide order dated 20.5.2017 and applicant no. 3 was appointed vide order dated 14.7.2016. The said orders were approved for salary to be paid to the applicant no. 2 vide order dated 19.1.2019 and to the applicant nos. 1 and 3 vide order dated 8.11.2019.
5. Learned counsel for the applicants has stated that the applicants have been falsely implicated in the present case. Learned counsel has next stated that the salary was being paid on 24.2.2020 to the applicants by the Management of the College. Subsequent to it, the complaint was made by Zila Samaj Kalyan Adhikari on 30.6.2020. The inquiry was set up on 8.7.2020 by Deputy Director Social Welfare, Varanasi Division, Varanasi, conducted inquiry and found the approval fake but he exonerated the applicants from it and only found the management and the Samaj Kalyan Adhikari liable for the forgery committed, if any. Subsequent to the said inquiry report, the salary of the applicants was cancelled vide order dated

6.9.2021.

6. Learned counsel has further stated that aggrieved by the said inquiry, the applicants had filed a Writ Petition No. 15079 of 2021 before this Court, whereby the same was allowed vide order dated 24.11.2021 and the matter was remanded back to the concerned authorities to decide the representation of the applicants. The representation of the applicants was rejected by the authorities on 25.1.2022. Subsequent to it, the applicants moved another Writ Petition No. 4040 of 2022, which was allowed by this Court vide order dated 29.3.2022, and the authorities were ordered to pay the salary and arrears of the applicants. The State moved Special Appeal (D) No. 238 of 2022 against the said order dated 29.3.2022 of this Court, and the same was allowed and the Single Bench was directed to decide it afresh after taking the counter affidavit of the State. It is next stated that the said writ petition is still pending.

7. Learned counsel has further stated that subsequent to it, the present FIR has been instituted against the authorities including the applicants on 14.9.2023. Learned counsel has stated that the applicants have been subjected to double jeopardy, as the applicants have lost their jobs and they are not being paid salary and arrears, instead the FIR has been instituted against them regarding having committed forgery. Learned counsel has filed a copy of the Writ Petition No. 15262 of 2023, whereby the co-accused persons have been granted interim relief till submission of report u/s 173(2) Cr.P.C. vide order dated 17.10.2023. Learned counsel has next stated that the applicants are entitled for bail on the ground of the said order also.

8. Per contra, learned A.G.A. has vehemently opposed the prayer for anticipatory bail on the ground that the applicants are the real beneficiaries of the payment and the allowances, if any, therefore, they could not be exonerated when the said order of appointment was found fake. Learned A.G.A. has further stated that the applicants inflicted heavy loss to the State Exchequer, as such, they are not entitled for anticipatory bail.

9. Considering the rival submissions advanced by the learned counsel for the parties and also the fact that the applicants are the real beneficiaries of the said forgery committed, and the said order passed qua co-accused person in Criminal Misc. Writ Petition No. 15262 of 2023 does not come to the rescue of the applicants, as such, I do not find it a fit case for grant of anticipatory bail to the applicants.

10. The arguments advanced by learned counsel for the applicants pertain to regular bail application and cannot be agitated at this stage u/s 438 Cr.P.C.

10. In view of the above, the present anticipatory bail application is found devoid of merits and is, accordingly, **rejected**.

(Justice Krishan Pahal)

Order Date :- 7.11.2023

Shalini