

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12197 of 2023

Applicant :- Smt. Hansmukhi

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

Counsel for Applicant :- Dalvir Singh, Sanjay Kumar Nigam

Counsel for Opposite Party :- G.A., Navaneet Kumar Shukla

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Dalvir Singh, learned counsel for the applicant, Sri Navaneet Kumar Shukla, learned counsel for the informant, Sri V.K.S. Parmar, learned A.G.A. for the State and perused the material placed on record.
3. The present application for anticipatory bail has been filed for anticipatory bail in in Complaint Case No.1652 of 2017, under Sections 323 and 420 IPC, Police Station Marhara, District Etah, during the pendency of trial.
4. As per prosecution story, the applicant is stated to be the married wife of the complainant herein who had filed an application under Section 156(3) Cr.P.C. before the Court of C.J.M., Etah, which was treated as a complaint case. The allegations are that the applicant had got herself a government job on the basis of fake documents. When the complainant went to the house of the applicant, he was assaulted by them.
5. Learned counsel for the applicant has submitted that the applicant has been falsely implicated in the present case. The applicant had challenged the summoning order dated 20.03.2017 by filing a petition under Section 482 No.14808 of 2017 and the interim protection was granted to them vide order dated 16.05.2017. Subsequent to it, the said petition was disposed of vide order dated 31.01.2023 with directions to the applicant and other co-accused persons to apply for bail in the light of the judgment of the Apex Court passed in **Satender Kumar Antil vs. Central Bureau of Investigation and Another, 2022 SCC OnLine SC 825**. Learned counsel has further stated that the other co-accused persons had applied for regular bail and have been granted so by the Sessions Judge, Etah. The applicant could not apply for it and instead applied for anticipatory bail.

6. Learned counsel for the applicant has further stated that the word 'bail' includes anticipatory bail, as such she is entitled for it. The criminal history assigned to the applicant stands explained as in Case Crime No.819 of 2017, the proceedings have been stayed vide order dated 06.06.2018 passed in Application U/S 482 No.20676 of 2018, as such the applicant is entitled for anticipatory bail. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against her. 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. and learned counsel for the informant have vehemently opposed the anticipatory bail application on the ground that the applicant has not come to the Court with clean hands as in another Case Crime No.162 of 2023, the applicant has not been granted bail and she has posed herself to be Hansmukhi at one place and Neelam at another. Learned counsel for the informant has further stated that in Case Crime No.819 of 2017, the said interim protection stood vacated in the light of the judgment of the Apex Court passed in **Asian Resurfacing of Road Agency Pvt. and Another vs. Central Bureau of Investigation, 2018 (16) SCC 299**, as such the applicant has not applied for bail in that case also and is not entitled for anticipatory bail.

8. After hearing learned counsel for the parties and taking into consideration the fact that the criminal history assigned to the applicant has not been properly explained coupled with the fact that the applicant had challenged the present case by filing a petition under Section 482 Cr.P.C. and failed, I do not find it a fit case for grant of anticipatory bail to the applicant. 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 :- 28.11.2023

Ravi Kant

(Krishan Pahal, J.)