

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11961 of 2023

Applicant :- Maiku Lal

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

Counsel for Applicant :- Adarsh Kumar Pandey, Dr. C.P.
Upadhyay

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Dr. C.P. Upadhyay, learned counsel for applicant as well as Sri Anit Kumar Shukla, 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 in regard to FIR/Case Crime No. 0485 of 2023, under Sections 420, 409 I.P.C., P.S.- Dhoomanganj, District- Prayagraj.
4. As per prosecution story, the applicant was posted as Account and Audit Officer with the Mandi Parishad, Prayagraj, in collusion with the other co-accused persons, is stated to have embezzled an amount of Rs. 2,44,37,327/-.
5. Learned counsel for the applicant has stated that the applicant has been falsely implicated in the present case. It is next stated that the applicant has already retired on 31.7.2023 and the FIR has been instituted after one and a half month i.e. on 16.9.2023, as such, he is not liable for any embezzlement. It is next stated that the applicant had moved the application before the Deputy Director, Construction, Mandi Parishad on 16.6.2023 alleging the embezzlement of the public fund. It is next stated that he had further moved an application on 20.6.2023 before the Deputy Director, Construction, Prayagraj alleging that there is inconsistency in the account to the tune of Rs. 1,42,59,795/-. Learned counsel has further stated that the applicant had given a third application to the same Deputy Director, Construction, Mandi Parishad, Prayagraj on 30.7.2023 alleging that in total, the embezzlement of an amount of Rs. 42,59,795/- has been committed.

Learned counsel has next stated that the applicant is a bonafide person and is himself a whistle blower, as such, he has been made a scapegoat and has been falsely implicated. It is further stated that a committee was instituted by the Director, Mandi Parishad on 8.8.2023 and the detailed inquiry report suggests that the applicant was posted from 14.7.2022 to 31.7.2023 i.e. the date of superannuation. The applicant alongwith the co-accused person Ravendra Singh and Sanjeev Kumar Gangwar has been found liable for the said embezzlement. Learned counsel has also stated that the said report also indicates that the amount of Rs. 1,42,59,795/- has been returned and deposited with the department by co-accused person Manjeet Singh, as such, nothing remains regarding the **tenure** of the applicant and the applicant is entitled for anticipatory bail, as he is the retired personnel and there is no likelihood of him absconding or not cooperating with the trial.

6. Per contra, learned A.G.A. has vehemently opposed the prayer for anticipatory bail on the ground that heavy loss to the State Exchequer has been committed and the said corruption stands fortified by the act that Rs. 1,42,59,795/- has been deposited in the account of the co-accused Manjeet Singh, as such, the applicant cannot be held exonerated. The said applications do not indicate them being received by the office.

7. Considering the rival submissions advanced by the learned counsel for the parties and also the fact that heavy loss to the State Exchequer has been committed by the applicant and other co-accused persons, I do not find it a fit case for grant of anticipatory bail to the applicant as the arguments advanced by learned counsel for the applicant pertain to regular bail application and cannot be agitated at this stage u/s 438 Cr.P.C.

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

(Justice Krishan Pahal)

Order Date :- 9.11.2023
Shalini