

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12018 of 2023

Applicant :- Ram Kripal Gupta

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

Counsel for Applicant :- Santosh Kumar Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. Shri Yogesh Kumar Tripathi, Advocate has filed vakalatnama today on behalf of the complainant/informant which is taken on record.

2. Heard learned counsel for the applicant, learned counsel for the informant as well as learned A.G.A. for the State and perused the record.

3. This application has been moved on behalf of the applicant **Ram Kripal Gupta** seeking anticipatory bail in Case Crime No. 321 of 2023, under Sections 419, 420, 467, 468, 409 IPC, Police Station Nichlaul, District Maharajganj.

4. It is alleged in the F.I.R. that the present applicant who was working as a Rojgar Sewa, fraudulently made an embezzlement for an amount of rupees more than one lakh in respect of some MANREGA work and the money of labourers was transferred in the bank account of the present applicant and he also procured some forged job card in the name of his father and his wife as well and also availed full benefit thereof and thereby embezzlement of public exchequer was made by the present applicant. F.I.R. was lodged on 11.07.2023 and investigation started, which is still going on.

5. It is submitted by the learned counsel for the applicant that the applicant is innocent and has no concern with the present matter. Allegations levelled against the applicant are false. It is further argued that investigation is going-on and till date no charge-sheet has been submitted against the accused applicant. It has been submitted that in case applicant is granted anticipatory bail, he shall not misuse the liberty of bail and would obey all conditions of bail.

6. It is further submitted that although the reply to the show cause notice was sent by the applicant to the B.D.O. and C.D.O. but without considering the same, an order was passed by the Deputy Commissioner Labour and Employment, Mirzapur on 14.06.2023 in an ex-parte manner and F.I.R. was lodged and enquiry was conducted against him and a recovery order was also passed. It is further submitted that the present applicant approached the High Court by way of Writ-A No.12674 of 2023 and the recovery proceedings were stayed by the coordinate Bench of this Court vide order dated 04.08.2023. It is further submitted that he has been cooperative with the I.O. of the case during the course of investigation and as such, he is entitled for anticipatory bail.

7. Learned A.G.A. opposed the prayer for anticipatory bail and it has been submitted that public money was transferred into bank account of the present applicant and there is no plausible explanation as to how the embezzlement amount was deposited in the bank account of the present applicant.

8. In this case, the matter relates to a money scam and money of the public exchequer has been embezzled by the present applicant.

9. *In Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1, the Hon'ble Apex Court has settled 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. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant, all attending facts and circumstances of the case and the fact that allegations are serious in nature, without expressing any opinion on the merits of the case, in my view, it is not a fit case for anticipatory bail to the applicant. Prayer made in the application is refused.

11. The application is **rejected**.

Order Date :- 2.11.2023

Shivangi