

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12094 of 2023

Applicant :- Smt. Nazmeen

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

Counsel for Applicant :- Ram Shiromani Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Krishna Kant Yadav, Advocate holding brief of Sri Ram Shiromani Yadav, learned counsel for the applicant, Sri Pranshu Kumar, learned A.G.A. for the State and perused the material placed on record.
3. The present application has been filed for anticipatory bail in Case Crime No.505 of 2017, under Sections 420, 467, 468, 471 I.P.C., Police Station Majhola, District Moradabad, during the pendency of trial.
4. As per prosecution story, the applicant is stated to be a tenant to the house of the informant, and as such, used to pay rent at the rate of Rs.800/- per month which she used to collect collectively for a period of 3-4 months. On 4.7.2016, the applicant is stated to have forged a fake agreement to sale showing to have given Rs.3,10,000/- to the informant and the rest amount of Rs.90,000/- was to be given at the stage of registered sale deed, as such, she had tried to take possession of the said house.
5. Learned counsel for the applicant has submitted that the applicant has been falsely implicated in the present case. The agreement dated 23.7.2016 is on record and bears the signature of the informant. Learned counsel has further stated that a civil suit for specific performance was filed by the applicant against the informant before the court of Civil Judge (Junior Division), Moradabad in which the notice was issued to the applicant, which is pending as Misc. Suit No.224 of 2021 and peeved by the said notice the present FIR has been instituted.
6. Learned counsel for the applicant has further stated that the said case was originally instituted in the year 2017 itself. The applicant is a *bona fide* person. The other co-accused persons

Mohd. Shakir and Shabbir Husain have been enlarged on regular bail by the Sessions Judge, Moradabad vide order dated 22.8.2023. The applicant is entitled for anticipatory bail on the ground that she is a lady and has been falsely implicated in the case.

7. Per contra, learned AGA has vehemently opposed the anticipatory bail application on the ground that the said agreement to sale is forged and it is stated to have been entered between one Nasreen Akhatar w/o Jameer Ahmad and Jakir s/o Mohd. Chhidda. The applicant is not a party to the said forged agreement to sale also. Learned A.G.A. has stated that the said civil suit has been filed just to illegally take possession of the said house to which admittedly the applicant is a tenant.

8. After taking into consideration the rival contentions and the fact that the agreement to sale dated 23.7.2016 is forged and the notice issued in the original petition filed in the year 2021 coupled with the fact that the arguments tendered at Bar by learned counsel for the applicant pertain to regular bail which cannot be agitated under the provisions of Section 438 Cr.P.C., I do not find it a fit case for grant of anticipatory bail to the applicant.

9. The present anticipatory bail application is hereby found devoid of merits and is accordingly ***rejected***.

10. 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 :- 3.11.2023

Vikas

[Krishan Pahal, J.]