

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12047 of 2023

Applicant :- Alok Kumar Gupta

Opposite Party :- State of U.P.

Counsel for Applicant :- Swati Singh, Birendra Singh

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. This application has been moved on behalf of the applicant - **Alok Kumar Gupta** seeking anticipatory bail in Case Crime No.182 of 2022, under Sections 419, 467, 468, 471 IPC, Police Station Naraini, District Banda.

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

3. Forged release orders in respect of three vehicles concerning the Department of Mines, Commercial Tax and R.T.O. were submitted by three vehicle drivers namely, Sunil Yadav, Indrasen Yadav and Krishna Kumar Yadav in the police station when the police held several trucks engaged in illegal mining. On inquiry, it was found that the release orders were forged and fabricated. F.I.R. was lodged against unknown accused persons and investigation started, which is going on.

4. It is submitted by the learned counsel for the applicant that the applicant is innocent and he has apprehension of his arrest in the above-mentioned case, whereas there is no credible evidence against him. Allegations levelled against the applicant are false. He has been falsely roped in this matter. It is further submitted that the applicant is not named in the F.I.R. There is no evidence at all that the applicant is the person who met the drivers and assured them to provide release orders of the vehicles. It is also submitted that no monetary gain has been made by the applicant in his favour. He has not been identified by any person. It is further submitted that no money transaction has been made in favour of the present applicant. It is also submitted that criminal history of one solitary case against the applicant has been sufficiently explained. Applicant is cooperating with the investigation of the case and as such he is entitled for anticipatory bail in this matter.

5. Per contra, learned A.G.A. and learned counsel for the informant vehemently opposed the prayer for anticipatory bail and it has been vehemently argued that out of three drivers, two have stated before the I.O. that subsequently when they went to the R.T.O. Department and inquired about the accused, they came to know his real name as Alok Kumar Gupta, who is the present applicant. It is also submitted that driver Indrasen Yadav has transferred the money through mobile app in favour of the present applicant and this transaction connects the applicant with the crime as alleged in the F.I.R. Ample evidence has been collected during the course of investigation so far against the accused applicant.

6. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has 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.

7. Considering the facts and circumstances of the case and also keeping in view the fact that through mobile app money transaction has been made in favour of the applicant by one of the drivers of offending vehicles as well as considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant and without expressing any opinion of the merits of the case, in my view, it is not a fit case for anticipatory bail to the applicant. The prayer made in the application is refused.

8. The anticipatory bail application is **rejected**.

Order Date :- 9.11.2023

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