

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12128 of 2023

Applicant :- Ram Prakash

Opposite Party :- State of U.P.

Counsel for Applicant :- Raghuraj Singh

Counsel for Opposite Party :- G.A., Sanjay Kumar Jain

Hon'ble Nalin Kumar Srivastava, J.

1. Heard learned counsel for the applicant, learned AGA and perused the material available on record.

2. This application for anticipatory bail has been filed by applicant- **Ram Prakash** in connection with Case Crime No. 135 of 2022, under sections 420, 467, 468, 471, 447, 323, 504, 506 IPC, P.S. Phareeha, District Firozabad.

3. It is alleged in the F.I.R. that by procuring a forged will deed, the sale deed was executed in favour of Leeladhar on 13.06.2019 whereas prior to the said sale deed, the said Leeladhar had already executed a sale deed on 12.08.2016 in favour of her two daughters including the daughter of the informant. F.I.R. was lodged on 12.08.2022 and after investigation, now charge sheet has been submitted in this matter.

4. It has been submitted by the learned counsel for the applicant that applicant is innocent and he has apprehension of arrest in the above-mentioned case, whereas there is no credible evidence against him. Allegations levelled against the applicant are false. Charge sheet in the matter has been submitted. It is further submitted that the sale deed executed in favour of the applicant by his uncle Leeladhar, was a registered deed. It is further submitted that as a matter of fact, the sale deed said to be executed on 12.08.2016 was procured by playing a fraud to the uncle of the applicant, Leeladhar. It is further submitted that when this fact came to the knowledge of Leeladhar, a civil suit for cancellation of the aforesaid deed was filed by the Leeladhar himself and when Leeladhar was expired, an application for impleadment was moved by the applicant and he was made a party to that suit. It is next submitted that as a matter of fact, no civil suit for cancellation of sale deed executed in favour of the applicant has been filed so far

by the informant. It is also submitted that the matter relates purely to civil dispute and the applicant has been granted interim protection till submission of police report U/s 173(2) Cr.P.C. in Criminal Misc. Writ Petition No.19302 of 2022 by the coordinate Bench of this Court vide order dated 14.12.2022 and the said liberty was never misused by him. It is also submitted that charge sheet has been submitted in this matter. It is further submitted that an Application U/s 482 Cr.P.C. No.24328 of 2023 was preferred by the applicant but the same was dismissed by this Court vide order dated 18.07.2023 without granting any relief to the applicant. It is next submitted that the criminal history of the present applicant has been sufficiently explained and as such, he is entitled for anticipatory bail. It is also submitted that after submission of the charge sheet, he is entitled for anticipatory bail. In case applicant is granted anticipatory bail, he shall not misuse the liberty of bail and would obey all conditions of bail.

5. Per contra, learned A.G.A. has opposed the prayer for anticipatory bail.

6. In the present case, the charge sheet has been submitted in this matter and he has been cooperative with the I.O. of the case during the course of investigation. Now, no custodial interrogation is required from the present accused applicant.

7. Although the charge sheet has been submitted in this matter, but in **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has settled the controversy finally by holding the anticipatory bail need not be of limited duration invariably. In appropriate case, it can continue upto conclusion of trial.

It has been further held therein that anticipatory bail granted can, depending on the conduct and behavior of the accused, continue after filing of the charge sheet till end of trial.

It has been further held by the Hon'ble Apex Court 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.

8. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the

parties, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, in my view, it is a fit case for anticipatory bail to the applicant till conclusion of trial in the matter.

9. The anticipatory bail application is **allowed**.

10. In the event of arrest of the applicant in the aforesaid case crime, he shall be released on anticipatory bail on his furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the Court concerned with the following conditions :-

(i) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

(ii) The applicant shall not pressurize/ intimidate the prosecution witness.

(iii) The applicant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

(iv) The applicant shall not leave India without prior permission of the Court and if they have passport, the same shall be deposited by him before the S.S.P./S.P. concerned.

11. In case of breach of any of the above conditions, the Investigating Officer shall be at liberty to file appropriate application for cancellation of anticipatory bail of the applicant in accordance with law.

Order Date :- 3.11.2023

Shivangi