

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S
438 CR.P.C. No. - 12255 of 2023

Applicant :- Rajnish Dutta And Another

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

Counsel for Applicant :- Ved Prakash Ojha

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Ashwini Kumar Ojha, Advocate holding brief of Sri Ved Prakash Ojha, learned counsel for the applicants and Sri R.P. Patel, learned A.G.A. for the State as well as perused the record.
3. The present application for anticipatory bail has been filed on behalf of applicants- **Rajnish Dutta and Pardeshi Ram Sahu** for anticipatory bail in Case Crime No.58 of 2018, under Sections 420, 467, 468, 471 and 120-B I.P.C., Police Station Bar, District Lalitpur, during the pendency of trial.
4. As per prosecution story, the applicants, who happen to be the Managing Director in Farming and Allied Ltd. Company, are stated to have duped the first informant to the tune of Rs.3,40,000/- which was given to their agent Vrindavan by him.
5. Learned counsel for the applicants has stated that the FIR is delayed by about one year and there is no explanation of the said delay caused. The applicants have been granted bail in Case Crime No.2813 of 2017 by the Sessions Judge, Lalitpur vide order dated 19.07.2023 and they have not misused it. The applicants are bonafide persons and it is the co-accused person Vrindavan Ahirwar himself who has committed the said forgery, if any. To save his skin, the said co-accused person had got instituted the said FIR No.2813 of 2017 against the applicants, as such the applicants are entitled for anticipatory bail in the instant case also.
6. Per contra, learned A.G.A. has vehemently opposed the anticipatory bail application on the ground that there is another case pending against applicant no.2 i.e. Case Crime No.54 of 2023 at the same police station on similar allegations and no order has been annexed regarding the said FIR. Learned A.G.A. has further stated that already the proceedings under Section 82 are complete against the applicants on 22.03.2023 and even the proceedings under Section 83 have been taken up on 29.05.2023, as such the applicants have been declared a proclaimed offender and are not entitled for anticipatory bail in the light of the judgment of Apex Court passed in **Lavesh vs. State (NCT of Delhi), (2012) 8 SCC 730**.
7. After hearing learned counsel for the parties and taking into consideration the fact that already the proceedings under Sections 82 and 83 have completed qua the applicants coupled with the fact that there is one unexplained criminal history of applicant no.2 and also considering the judgment of Apex Court passed in **Lavesh (supra)**, I do not find it a fit

case for grant of anticipatory bail to the applicants. The present anticipatory bail application is hereby found devoid of merits and is accordingly **rejected**.

8. 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 :- 15.12.2023
Ravi Kant

(Krishan Pahal, J.)