

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S
438 CR.P.C. No. - 12172 of 2023

Applicant :- Kranti Kumar Kaul

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

Counsel for Applicant :- Manoj Kumar Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri V.K. Ojha, Advocate holding brief of Sri Manoj Kumar Tiwari, learned counsel for the applicant, Sri Ashutosh Srivastava, learned A.G.A. for the State and perused the material placed on record.
3. The present application for anticipatory bail has been filed for anticipatory bail in Case Crime No.124 of 2023, under Sections 420, 467, 468, 471 I.P.C., Police Station Civil Lines Muzaffar Nagar, District Muzaffar Nagar, during the pendency of trial.
4. As per prosecution story, a letter was received by the UP Madhyamik Siksha Seva Chayan Board, Prayagraj regarding the verification of appointment of the applicant. On verification, it was found that the applicant was not appointed on the said post, as such, the said letter was fake.
5. Learned counsel for the applicant has submitted that he has been falsely implicated in the present case. He has nothing to do with the said offence. Learned counsel has stated that several FIRs have been instituted against several persons on similar allegations. The applicant had filed a Criminal Misc. Writ Petition No.11418 of 2023 which was dismissed vide common order dated 4.10.2023 passed in Criminal Misc. Writ Petition No.9011 of 2023. Learned counsel has placed much reliance on the paragraph-10 of the aforesaid order dated 4.10.2023, which reads as follows:-

"10. Learned AGA submits that the petitioners are involved in the commissioning of cognizable offence, and the investigation is under progress. The petitioner's role has surfaced during the investigation, and lot more needs to be done by the Investigating Officer. The learned AGA further invited the attention of this Court to the order dated 29.05.2023 passed in Writ-A No. 7673 of 2023 titled as Ajit Kumar Srivastava vs. State of U.P. AND Writ-A No. 8204 of 2023 titled as Shilpi Kesari And 5 Others vs. State of U.P. And 2 Others wherein learned single judge was of the underlined view;

"In view of the above, the Court prima facie is of the view that merely the petitioners could not have managed to secure panels under the signature of the Deputy Secretary and direct communication thereof to the respective District Inspectors of Schools. A mere administrative inquiry would not be sufficient in the matter. The public exchequer has been fraudulently looted by the conspirators by giving appointments to those who were never interviewed and were never placed in the select list as per the board's own case. It is case of huge financial loss caused to the public exchequer and and fraud has been played upon the tax payers money. Accordingly, I hereby direct the State Government to hold vigilance inquiry in the matter of selection and appointment of the petitioners and payment of salary made by the office of District inspector of Schools and concerned Finance and Accounts officers (Secondary), and take appropriate action on the basis of the outcome of the report of the vigilance inquiry. The action taken report in the above regard be submitted to this Court on the next date fixed."

6. Learned counsel for the applicant has further stated that in the said order it has come up that vigilance department is taking up the investigation. There is no likelihood of early conclusion of the investigation. Learned counsel has stated that if any cogent evidence is found against the applicant, he is ready to cooperate with the trial. The applicant has no criminal history to his credit. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length.

7. Per contra, learned AGA has vehemently opposed the anticipatory bail application on the ground that the attempt of the applicant was to cause heavy loss to the State Exchequer and has committed forgery. Learned A.G.A. has further stated that it is an open and shut case as no appointment of the applicant was found by the Board, although he could not dispute that there is no criminal antecedent of the applicant.

8. After taking into consideration the rival contentions and the fact that the applicant had tried to get himself appointed on the basis of fake appointment letter, 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 :- 6.11.2023/Vikas

[Krishan Pahal, J.]