Court No. - 72
Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 12178 of 2023
Applicant :- Kishor Kumar
Opposite Party :- State of U.P.
Counsel for Applicant :- Ankit Agarval
Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.

2. Heard Sri Ankit Agarval, learned counsel for the applicant and Sri Shakil Ahmad, learned A.G.A. for the State as well as perused the record.

3. The present anticipatory bail application has been filed on behalf of the applicant in Case Crime No.1732 of 2021, registered under Sections 420, 406 I.P.C. at Police Station- Kotwali Dehat, District- Bulandshahr with a prayer to enlarge him on anticipatory bail.

4. As per prosecution story, the applicant is stated to have executed a sale deed in favour of the informant for a consideration of Rs.6 lakh and it came to the knowledge of the informant that prior to the said sale deed the applicant had executed an agreement to sell with Pawan Kumar for a consideration of Rs.1,50,000/-.

5. Learned counsel for the applicant has stated that the applicant has been falsely implicated in the present case. There is nothing in the FIR to corroborate the prosecution story. The allegations are *per se* false. Learned counsel has also placed reliance on the original suit no.722 of 2020 filed by the informant on 21.10.2020 before the court of Civil Judge (Junior Division), Bulandshahr, whereby the informant had sought injunction against the applicant and other co-accused persons. The ingredients of Sections 420, 406 I.P.C. are not fulfilled against the applicant. The matter of civil nature has been converted into criminal one.

6. Learned counsel for the applicant has further stated that the criminal history of two cases assigned to the applicant stands explained in paragraph-27 of the affidavit. 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. The applicant has apprehension of his arrest. Learned counsel has

stated that the applicant undertakes that he has co-operated in the investigation and is ready to do so in trial also failing which the State can move appropriate application for cancellation of anticipatory bail.

7. Per contra, learned A.G.A. has vehemently opposed the anticipatory bail application but unable to dispute the submissions raised by the learned counsel for the applicant.

8. On due consideration to the arguments advanced by learned counsel for the applicant as well as learned A.G.A. and considering the nature of accusations and antecedents of the applicant, the applicant is liable to be enlarged on anticipatory bail in view of the judgment of Supreme Court in the case of ***"Sushila Aggarwal Vs. State (NCT of Delhi), (2020) 5 SCC 1"***. The future contingencies regarding the anticipatory bail being granted to applicant shall also be taken care of as per the aforesaid judgment of the Apex Court.

9. In view of the above, the anticipatory bail application of the applicant is allowed. Let the accused-applicant- **Kishor Kumar** be released forthwith in the aforesaid case crime (supra) on anticipatory bail till the conclusion of trial on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i). that the applicant shall make himself available for interrogation by a police officer as and when required;
(ii). that 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;
(iii). that the applicant shall not leave India without the previous permission of the court;
(iv). that in case charge-sheet is submitted the applicant shall not tamper with the evidence during the trial;
(v). that the applicant shall not pressurize/ intimidate the prosecution witness;
(vi). that the applicant shall appear before the trial court on each date fixed unless personal presence is exempted;
(vii). that in case of breach of any of the above conditions the court concerned shall have the liberty to cancel the bail.

10. It is made clear that observations made hereinabove are exclusively for deciding the instant anticipatory bail application and shall not affect the trial.

Order Date :- 6.11.2023/ Vikas

[Krishan Pahal, J.]

Digitally signed by :-
VIKAS VERMA
High Court of Judicature at Allahabad