

Court No. - 73

**Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12242 of 2023**

Applicant :- Neeraj Dhiman And 2 Others

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

Counsel for Applicant :- Sudhir Kumar Agarwal

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. Heard learned counsel for the applicants, learned A.G.A. for the State and perused the material available on record.

2. This application for anticipatory bail has been filed by applicants - **Neeraj Dhiman, Sachin Dhiman** and **Ram Kumar Dhiman** in connection with Case No.12350 of 2023 arising out of Case Crime No.746 of 2022, under Sections 420, 406 IPC, Police Station Kotwali Nagar, District Muzaffar Nagar.

3. The purchase order was given to the applicants by the informant for supply of some machines and as a token advance money, Rs.6,42,000/- were transferred in the bank account of the applicants through RTGS and in pursuance of the aforesaid agreement, the informant proceeded to make preparations and a huge amount of money was invested in that, but after a long span of time, the terms and conditions of purchase order were not fulfilled and the instruments were not delivered to the informant. F.I.R. was lodged on 7.12.2022 and after investigation, now charge-sheet has been submitted in the matter.

4. It is submitted by the learned counsel for the applicants that the applicants are innocent and they have apprehension of their arrest in the above-mentioned case, whereas there is no credible evidence against them. They have been falsely implicated into this matter. Allegations levelled against the applicants are false. The investigation of the case has been completed and charge-sheet has been filed and cognizance has been taken into the matter. It is further submitted that it is a case of simple business transaction between the parties and no fraud has been committed by the applicants and no wrongful gain has been made by them in their favour at all. It is further submitted that out of total amount of Rs.6,42,000/-, Rs.1,10,000/- were returned at the same time to the

informant of this case and Rs.4,25,000/- have been returned through bank transaction in favour of the informant of this case. It is further submitted that only a marginal amount is now due to the applicants. It is further submitted that the informant on 29.10.2022 himself sent an e-mail to the applicants stating therein that he wants to cancel the purchase order request made by him due to some health problem. In that way, no forgery was committed by the present applicants. Applicants have been cooperative during the course of investigation. It is further submitted that from the applicant. In case the applicants are granted anticipatory bail, they shall not misuse the liberty of bail and would obey all conditions of bail.

5. On the other hand, learned A.G.A. opposed the prayer for anticipatory bail, but however he could not dispute the factual aspect that a substantial amount of money has already been returned by the applicants in favour of the informant.

6. In the present matter, charge-sheet has been submitted in the offence punishable with an imprisonment for a maximum period of seven years. It appears to be a business dispute between the parties. During investigation, the I.O. did not require the arrest of the applicants. No custodial interrogation is required in this matter.

7. Although charge-sheet has been submitted in the present 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 law on the subject finally by holding that 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 applicants 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 applicants till end of the trial in the matter.

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

10. In the event of arrest of the applicants in the aforesaid case crime, they shall be released on anticipatory bail till end of the trial on their 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 applicants shall make themselves available before the court concerned on the date fixed in the matter;

(ii) The applicants 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 / her from disclosing such facts to the Court or to any police officer;

(iii) The applicants shall not leave India without the previous permission of the Court and if they have passport, the same shall be deposited by them before the S.S.P./S.P. Concerned.

11. In case of default of any of the conditions, same may be a ground for cancellation of protection granted to the applicants.

Order Date :- 7.11.2023

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