Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 12547 of 2023

Applicant :- Keshari Nandan Gupta
Opposite Party :- State of U.P.
Counsel for Applicant :- Khushboo Gupta,Abhay Krishna Singh
Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. This application has been moved on behalf of the applicant **Keshari Nandan Gupta** seeking anticipatory bail in Case Crime No.541 of 2023, under Sections 419, 420, 467, 468, 471 IPC and 6/10 U.P. Public Examination (Prevention of Unfair Means) Act, 1998, P.S. Chakeri, District Kanpur Nagar.

2. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

3. 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. It is further submitted that the applicant had applied for the post of Gram Vikas Adhikari but since he did not receive the Admit Card for the said examination, he was not in a position to appear in the said examination and he is totally unaware to the fact as to who and why appeared as an imposter in his place in the said examination. Co-accused Pradeep Kumar, who was held on the spot, is not known to the present applicant and it appears that due to some ulterior motive he, as an imposter, appeared for the applicant in the said examination. The investigation of the case is going-on and the applicant is cooperating with the same. The applicant has no criminal history to his credit. It has been submitted that in case applicant is granted anticipatory bail, he will not misuse the liberty of bail and will co-operate in the investigation and would obey all conditions of bail.

4. Learned A.G.A. has opposed the prayer for anticipatory bail.

5. I have considered the rival submissions made by the learned counsel for the parties.

6. From the perusal of the record it appears that in the competitive examination of Gram Vikas Adhikari, the present applicant did not appear and another person namely, Pradeep Kumar son of Badri Prasad, was found appearing on his behalf in the said examination as an imposter. F.I.R. was lodged on 27.6.2023 and investigation started, which is still going on. At this stage the ground taken by the applicant in paragraph 10 of the affidavit that he did not receive the Admit Card and due to that reason he did not appear in the said examination prima facie appears to be convincing. The applicant is cooperating in the investigation. He has no criminal history to his credit.

7. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has held 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. In **Siddharth Vs. State of Uttar Pradesh & Another, (2022) 1 Supreme Court Cases 676**, the Hon'ble Apex Court has held that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it. If arrest is made routine, it can cause incalculable harm to the reputation and self-esteem of a person. If the Investigating Officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation, then there is no compulsion on the officer to arrest the accused.

9. Considering the settled principles of law regarding anticipatory bail, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion on the merits of the case, in my view, it is a fit case for anticipatory bail to the applicant till filing of police report under Section 173(2)

CrPC before the Competent Court.

10. The application is **allowed** accordingly.

11. In the event of arrest of the applicant, 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 Station House Officer of the police station concerned with the following conditions:-

(i) The applicant shall make himself available for interrogation by a police officer as and when required.

(ii) 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/her from disclosing such facts to the Court or to any police office.

(iii) The applicant shall not leave India without the previous permission of the Court and if he has passport, the same shall be deposited by him before the S.S.P./S.P. Concerned.

12. In case of default of any of the conditions, the Investigating Officer shall be at liberty to file appropriate application for cancellation of protection granted to the applicant.

Order Date :- 16.11.2023

safi

Digitally signed by :-
MAHBOOB SAFI
High Court of Judicature at Allahabad