

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12304 of 2023

Applicant :- Ashraf Qureshi

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

Counsel for Applicant :- Sikandar Khan

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard learned counsel for applicant as well as Sri V.K.S. Parmar, learned A.G.A. for State and also perused the material available on record.
3. The present application for anticipatory bail has been filed for protection in regard to FIR/Case Crime No. 196 of 2023, under Sections 409, 420, 202, 203 I.P.C., P.S.- Chhatari, District-Bulandshahar.
4. As per prosecution story, the applicant, who happens to be the Chairman of the Nagar Panchayat, Chhatari, in collusion with the E.O. Vinay Kumar Mishra and Sumat Veer Sharma, is stated to have embezzled an amount of Rs. 30,000/- of the Nagar Panchayat.
5. Learned counsel for the applicant has stated that the applicant has been falsely implicated in the present case. The applicant has nothing to do with the collection of revenue and depositing it. The said job is of the clerk and E.O. concerned, which is evident from the FIR itself, whereby the said fact has been mentioned in the RTI report submitted after an application was moved by the informant. Learned counsel has further stated that the proceedings regarding the co-accused persons have been stayed by this Court vide order dated 10.7.2023 passed in Criminal Misc. Writ Petition No. 10511 of 2023. As such, the applicant is also entitled for anticipatory bail, as the investigation is going on and the final report (charge sheet) has yet not been submitted. It is next stated that the criminal history of the applicant stands explained in paragraph 18 of the affidavit filed with the anticipatory bail application.

6. Per contra, learned A.G.A. has vehemently opposed the prayer for anticipatory bail on the ground that the applicant has a criminal history of four cases and it has not been explained as no order has been annexed with the affidavit filed with the present application. Learned A.G.A. has further stated that even the details of the case crime no. 383 of 2017 u/s 3/11 Prevention of Slaughter Act, P.S. Dibai, Bulandshahar, has not been mentioned, as such, the applicant is not entitled for anticipatory bail.

7. Considering the rival submissions advanced by the learned counsel for the parties and also the fact that the criminal history of four cases assigned to the applicant has not been explained, I do not find it a fit case for grant of anticipatory bail to the applicant.

8. The arguments advanced by learned counsel for the applicant pertain to regular bail application and cannot be agitated at this stage u/s 438 Cr.P.C. In view of the above, the present anticipatory bail application is found devoid of merits and is, accordingly, **rejected.**

(Justice Krishan Pahal)

Order Date :- 8.11.2023
Shalini