

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 12424 of 2023

Applicant :- Subhash Chandra Tyagi

Opposite Party :- State of U.P.

Counsel for Applicant :- Neeraj Kumar Pandey

Counsel for Opposite Party :- G.A.,Sandeep Kumar

Hon'ble Nalin Kumar Srivastava,J.

1. This application has been moved on behalf of the applicant-Subhash Chandra Tyagi seeking anticipatory bail in Case Crime No. 265 of 2023, under Sections 306 IPC, Police Station Fatehabad, District Agra.

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 police has retrieved three suicide notes of the deceased during investigation wherein it was written that since four named accused persons including the present applicant had borrowed the huge amount of money from the deceased and the present applicant had taken Rs. 20,00,000/- (twenty lakhs) as loan, which was not been refunded by him, the said act caused to lead the deceased to commit suicide by hanging himself. It is further submitted that prosecution story is highly suspicious and not reliable and there are three suicide notes allegedly prepared by the deceased himself. In the first two suicide notes the present applicant has not named anyone and in the third suicide note he has alleged the present applicant to borrow money from him, which was not being paid. It is further submitted that an elaborate study of the suicide notes indicates that deceased himself had borrowed a huge amount of money from several persons and since he was not in a position to repay the same, he committed suicide. It is further submitted that present applicant has himself deposited Rs. 1,20,000/- in the bank account of the deceased during Corona period. It is also submitted that there is no evidence at all to the effect that Rs. 20,00,000/- (twenty lakhs) were borrowed by the applicant from the deceased himself. Applicant is innocent and he has apprehension of his arrest in the above-mentioned case, whereas there is no credible evidence against him. Allegations levelled against the applicant are false and investigation is going on. It is further submitted that necessary elements of section 306 I.P.C. are completely missing and the applicant is entitled for anticipatory bail. It has been

submitted that in case applicant is granted anticipatory bail, he shall not misuse the liberty of bail and would obey all conditions of bail.

4. Learned A.G.A. opposed the prayer for anticipatory bail and it is submitted that prosecution case does not deserve to be washed off on the basis that more than one suicide notes are available on record. It is further submitted that in the first two suicide notes, no name of any person was mentioned by the deceased but in the 3rd suicide note, he has disclosed name of the persons, who were responsible for his death. It is also submitted that this is not the prosecution case that huge amount of money was borrowed by the deceased himself but the case of the prosecution is that since many persons including the present applicant had borrowed a huge amount of money from him and they were not repaying the same and he was not in position to maintain his business and social status, it led him to commit suicide by way of hanging. It is further submitted that there was no reason as to why a person who was under the immediate threat of death would falsely implicate a person without any reason.

5. It is also submitted that in the present case ample evidence has been collected during course of investigation by the Investigating Officer, as such, the applicant is not entitled for the anticipatory bail.

6. 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.

7. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant, all attending facts and circumstances of the case and the fact that allegations are serious in nature, without expressing any opinion on the merits of the case, in my view, it is not a fit case for anticipatory bail to the applicant. Prayer made in the application is refused.

8. The anticipatory bail application is **rejected**.

Order Date :- 5.12.2023/Vibha