

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12405 of 2023

Applicant :- Dilip Kumar Baranwal

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

Counsel for Applicant :- Sanjay Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. Heard learned counsel for the applicant, learned AGA for the State and perused the record.
2. The present application under Section 438 Cr.P.C. has been filed by the applicant - **Dilip Kumar Baranwal** seeking bail in anticipation of his arrest in Case Crime No.125 of 2022, under Sections 419, 420, 467, 468, 471, 120B IPC and Section 6/10 Public Examination Act, Police Station- Jahanaganj, District- Azamgarh.
3. Contention of counsel for the applicant is that the applicant is an invigilator during High School Examination- 2022. Some students are found imposter and appearing in the examination in place of other candidates by using forged admit cards. There is no allegation against the applicant that he is involved in the aforesaid crime but only because of his being an invigilator, he has been falsely implicated in the matter with allegation that he has not properly checked the admit card and sitting plan. He further contended that only duty of the invigilators are to check the admit card and photo of the candidates. During the examination, they cannot check whether the admit cards are forged or genuine, therefore, no case is made out against the applicant. It is further submitted that identically placed co-accused Pradeep Kumar, Sushma and Shobha have been granted anticipatory bail till submission of charge-sheet by coordinate Bench of this Court vide order dated 9.6.2023 passed in Crl. Misc. Anticipatory Bail Application u/s 438 Cr.P.C. No. - 6721 of 2023.
4. Learned A.G.A. has opposed the prayer for anticipatory bail.
- 5 Hence without expressing any opinion on the merits of the case and considering the nature of accusations, gravity of offence and

antecedents of applicant, he is entitled to get anticipatory bail till submission of charge sheet under Section 173 (2) Cr.P.C. as per the Constitution Bench judgment of the Apex Court in the case of **Sushila Aggarwal vs. State (NCT of Delhi)- 2020 SCC Online SC 98**.

6. In the event of arrest, the applicant shall be released on anticipatory bail. Let the applicant - **Dilip Kumar Baranwal** involved in the aforesaid crime be released on anticipatory bail till submission of charge sheet under Section 173 (2) Cr.P.C. on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the trial court concerned with the following conditions:-

(i). The applicant shall not tamper with the prosecution evidence by intimidating/ pressurizing the witnesses, during the investigation or trial.

(ii). The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(iii). The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

In case of breach of any of the above conditions, it shall be a ground for cancellation of anticipatory bail.

7. With the aforesaid observations / directions, the application stands disposed of.

Order Date :- 8.11.2023

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