

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12355 of 2023

Applicant :- Renu Gautam And Another

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

Counsel for Applicant :- Sadaful Islam Jafri

Counsel for Opposite Party :- G.A.,Bina Singh,Krishna
Kumar Singh

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri S.I. Jafri, learned counsel for the applicants, Sri Krishna Kumar Singh, learned counsel for the informant, Sri Pranshu Kumar, learned A.G.A. for the State and perused the material placed on record.
3. The present application for anticipatory bail has been filed for anticipatory bail in Case No.3435 of 2022 (State vs. Ashok Kumar and Another) arising out of Case Crime No.75 of 2022, under Sections 420, 406 and 506 IPC, Police Station Hazrat Nagar Garhi, District Sambhal, during the pendency of trial.
4. As per prosecution story, the informant is stated to be the brother of applicant no.2 and applicant no.1 is stated to be his sister-in-law. Applicant no.2 is stated to be the proprietor of gas agency and had taken an amount of Rs.45,12,000/- from the informant on the pretext that he shall be made a partner in the said Akansha Bharat Gas Agency, of which about Rs.18,37,000/- are stated to have been given in cash and rest was transferred through various transactions in the account of the agency. After repeated deliberations, the applicants are stated to have neither made the partner nor returned the said amount.
5. Learned counsel for the applicants has further stated that the applicants have been falsely implicated in the present case. Applicant no.1 is not the proprietor of the agency, as such her case stands distinguished to applicant no.2. She has nothing to do with the day today affairs of the agency. She is simply a home maker. There are series of litigations between the parties from both the sides, as such the applicants have no criminal antecedents regarding any other person whatsoever, as such the applicants are entitled for anticipatory bail. Several other

submissions have been made on behalf of the applicants to demonstrate the falsity of the allegations made against them. The circumstances which, as per counsel, led to the false implication of the applicants have also been touched upon at length.

6. Per contra, learned counsel for the informant and learned A.G.A. have vehemently opposed the anticipatory bail application on the ground that the applicants have agitated the provisions of Section 482 Cr.P.C. by filing two petitions respectively i.e. Application U/S 482 Nos.17899 of 2023 and 32546 of 2022, as such are not entitled for anticipatory bail in light of paragraph 43 of the judgment of this Court passed in **Shivam vs. State of U.P. and Another, 2021 SCC OnLine All 264**.

7. After hearing learned counsel for the parties and taking into consideration the fact that the applicants have already availed the opportunity under Section 482 Cr.P.C. twice and failed and also considering paragraph 43 of the judgment of this Court passed in **Shivam (supra)**, I do not find it a fit case for grant of anticipatory bail to applicant no.2- Ashok Kumar.

8. The present anticipatory bail application qua-applicant no.2- Ashok Kumar is hereby found devoid of merits and is accordingly **rejected**.

9. In view of the above, the anticipatory bail application qua-applicant no.1 is allowed on the ground that she is neither the proprietor of the said gas agency nor a partner in it coupled by the fact that she is a home maker. Let the accused-applicant no.1- **Renu Gautam** be released forthwith in the aforesaid case crime (supra) on anticipatory bail till the conclusion of trial on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

- (i). that the applicant no.1 shall make herself available for interrogation by a police officer as and when required;
- (ii). that the applicant no.1 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 her from disclosing such facts to the court or to any police officer or tamper with the evidence;
- (iii). that the applicant no.1 shall not leave India without the previous permission of the court;
- (iv). that in case charge-sheet is submitted the applicant no.1 shall not tamper with the evidence during the trial;
- (v). that the applicant no.1 shall not pressurize/ intimidate the prosecution witness;
- (vi). that the applicant no.1 shall appear before the trial court on each date fixed unless personal presence is exempted;

(vii). that in case of breach of any of the above conditions the court concerned shall have the liberty to cancel the bail.

10. It is made clear that observations made hereinabove are exclusively for deciding the instant anticipatory bail application and shall not affect the trial.

Order Date :- 23.11.2023

Ravi Kant

(Krishan Pahal, J.)