

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 13012 of 2023

Applicant :- Deepak Kumar Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Ram Sumer Chaudhary, Manju Lata Verma

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Ram Sumer Chaudhary, 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. 234 of 2023, under Section 409 I.P.C., P.S.- Ghughali, District- Maharajganj.
4. As per prosecution story, the applicant and other co-accused persons were employed to recover house tax, tax from taxi stand and private bus stand etc. and are stated to have deposited only Rs. 3 lakhs with the department and had usurped the rest amount.
5. Learned counsel for the applicant has stated that the applicant has been falsely implicated in the present case. Learned counsel has next stated that subsequent to the institution of the FIR, the applicant has deposited an amount of Rs. 6 lakhs with the department on 3.7.2023 and 5.7.2023, as such, he is a bonafide person. The delay in depositing the amount cannot be attributed to the applicant, as that may be the negligence at the part of the applicant. In case, the anticipatory bail application of the applicant is allowed, he will not misuse the liberty and shall cooperate with trial.
6. Per contra, learned A.G.A. has vehemently opposed the prayer for anticipatory bail on the ground that the applicant has not deposited the receipt books nos. 1 to 6 and has not deposited an amount of Rs. 16,76,794/- of the department, as such, has embezzled the said amount. The instant case is an open and shut

case, as such, he 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 applicant has usurped an amount of Rs. 16,76,794/-, I do not find it a fit case for grant of anticipatory bail to the applicant as 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.

8. In view of the above, the present anticipatory bail application is found devoid of merits and is, accordingly, **rejected**.

9. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of anticipatory bail application and the said observations shall have no bearing on the merits of the case.

(Justice Krishan Pahal)

Order Date :- 28.11.2023

Shalini