

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12742 of 2023

Applicant :- Rajan Kumar Verma And Another

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

Counsel for Applicant :- Abhishek Kumar Kushwaha, Nitin
Chandra Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. This application has been moved on behalf of the applicants **Rajan Kumar Verma** and **Smt. Manisha Verma** seeking anticipatory bail in Case Crime No. 650 of 2022, under Sections 419, 420, 467, 468, 471, 120-B IPC, Police Station Ramgarhtal, District Gorakhpur.

2. Heard learned counsel for the applicants, learned A.G.A. for the State and perused the record.

3. It is submitted by the learned counsel for the applicants that applicants are innocent and they have apprehension of their arrest in the above-mentioned case, whereas there is no credible evidence against them. Allegations levelled against the applicants are false. It is further submitted that the informant never made any complaint regarding the CC Limit of the two shops which were allegedly purchased by the informant. It is further submitted that the sale proceeding is affirmed by the Bank after verification of the relevant documents. It is also submitted that it is a matter of civil nature and Civil Suit is already and admittedly pending between the parties. It is also submitted that the applicants are the husband and wife and the criminal history of the applicants has been explained by way of supplementary affidavit. It is further submitted that the parties are also willing to make a compromise in this matter. The investigation of the case is going on and the applicants are cooperating with the same. It has been submitted that in case applicants are granted anticipatory bail, they 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 submitted that after execution of the sale deed in the year 2016 in favour of the wife of the informant, the applicant no.2 had no

authority and right to procure any CC Limit from the Bank in respect of the aforesaid shop and when she was aware of the fact that in the month of March, 2018 she had already obtained a CC Limit in respect of second shop, she ought not to conceal this fact when the second sale deed was being executed on 29.5.2018 and in that way fraud has been committed by both the applicants who are husband and wife. During investigation ample and sufficient evidence has been collected against the applicants and the pendency of the civil suit does not bar the lodging of F.I.R. and initiation of criminal proceedings against the applicants for the fraud played by them upon the poor informant.

5. I have considered the rival submissions made by the learned counsel for the parties.

6. From the perusal of the record, it reveals that two plots under the ownership of accused Manisha Verma, applicant no.2, were purchased by the informant in the name of his wife in the year 2016 and 2018, respectively and her name was also mutated in the revenue records. Subsequently, the informant came to know that in March, 2018 the vendor Manisha Verma had already obtained CC Limit of Rupees Fifty Five Lakhs in respect of both the properties. On a complaint made with the Bank, no relief was granted to the informant. A civil suit was also filed in this regard and F.I.R. was lodged on 29.11.2022 and investigation started, which is still going on. It also reveals that after execution of the sale deed in the year 2016 in favour of the wife of the informant, the applicant no.2 had no authority and right to procure any CC Limit from the Bank in respect of the aforesaid shop. Ample and sufficient evidence has been collected against the applicant during course of investigation so far.

7. 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.

8. Hence, considering the settled principles of law regarding

anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicants, 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 applicants. Prayer made in the application is refused.

9. The application is **rejected**.

Order Date :- 30.11.2023

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