

Court No. - 73

**Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12897 of 2023**

Applicant :- Smt. Ishrat Jahan

Opposite Party :- State of U.P.

Counsel for Applicant :- M J Akhtar, Sr. Advocate

Counsel for Opposite Party :- G.A., Mohd. Khalil

Hon'ble Nalin Kumar Srivastava, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
2. This application has been moved on behalf of the applicant **Smt. Ishrat Jahan** seeking anticipatory bail in Case Crime No. 216 of 2023, under Sections 420, 406, 467, 468, 471, 120-B IPC, Police Station- Nauchandi, District- Meerut.
3. An agreement took place between the informant and named accused persons including the present applicant for purchase of a house valuing Rs.3 crore and the informant paid Rs.20 lacs as advance money to the accused persons and subsequently some more amount was also deposited in the bank account of the present applicant and in this way Rs.20 lacs were paid by the informant to the present applicant. The sale deed was to be executed on 6.8.2021 and a notarial agreement dated 5.3.2021 was also executed. Subsequently some other amount was also paid by the informant to the accused persons and in this way a total of Rs.1,05,00,000/- were paid by the informant to the parties but subsequently they refused to execute the sale deed and usurped the money given by the informant. FIR was lodged on 17.8.2023 and investigation started, which is going on.
4. It is submitted by the learned counsel for the applicant that the applicant is innocent and has no concern with the present matter. Allegations levelled against the applicant are false. It is further submitted that investigation is going-on and till date no charge-sheet has been submitted against the accused applicant. It is further submitted that as a matter of fact the first agreement between the parties was executed on 6.2.2021 and within six months i.e. up to 6.8.2021 the informant had to pay the rest amount and get the sale deed executed in his favour but during that period rest amount was

not paid and that is why sale deed was not executed. It is further submitted that no cheating has been made by the present applicant and on the basis of false and fabricated facts FIR of this case was lodged. It is also submitted that the present applicant was herself threatened by the informant and his men to vacate his house and they are trying to take forcible possession of her house in connection with that an application was given by the applicant to the police on 5.4.2023. It is further submitted that the FIR as case crime no. 217 of 2023 was also lodged by the present applicant against the informant side on 17.8.2023 for committing forgery with her and the present case is a counter blast of the aforesaid case. It is further submitted that a legal notice was also sent by the applicant to the informant to get the sale deed executed after paying the rest consideration amount which shows the bonafide of the present applicant. It is further submitted that applicant is a lady she has been cooperative with the investigation so far and is entitled for anticipatory bail. It is lastly submitted that in case applicant is granted anticipatory bail, he will not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. opposed the prayer for anticipatory bail. It is vehemently argued that a huge amount of money valuing more than Rs.1 crore has been usurped by the present applicant and the money already paid by the informant has been utilized by him for his own benefits. It is not a case of mere civil nature but since from the very inception the intention of the applicant was to commit fraud and to grab the money of the informant, it is a clear case of forgery and cheating and the applicant is not entitled for anticipatory bail.

6. In the present case a huge amount of money which was more than one crore of the informant was dishonestly grabbed by the present applicant and the money of the informant has been utilized by her for own benefit.

7. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has settled 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 applicant and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, I deem it not a fit case to grant anticipatory bail to the present applicant. Prayer made in the application is refused.

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

Order Date :- 11.12.2023

Fhd