

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12868 of 2023

Applicant :- Vikas Singh@ Vikas Yadav@ Sandeep Yadav

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

Counsel for Applicant :- Ishwar Chandra Tyagi

Counsel for Opposite Party :- G.A.,Shivakant

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Ishwar Chandra Tyagi, learned counsel for applicant and Sri Shivakant, learned counsel for the informant as well as Sri S.P. Pandey, 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. 701 of 2022, under Sections 419, 420, 406, 467, 468, 471, 120B I.P.C., P.S.- Kotwali, District- Fatehpur.
4. As per prosecution story, the applicant alongwith other co-accused persons, is stated to have duped the informant and several persons on the pretext that they shall be given a job in Marine Engineering abroad.
5. Learned counsel for the applicant has stated that the applicant has been falsely implicated in the present case. It is next stated that the case of the applicant is at par with the co-accused person Jitendra @ Pintu Dubey, who has been enlarged on anticipatory bail by the Session Court, Fatehpur, vide order dated 20.5.2023 but the same Sessions Judge has rejected the anticipatory bail of the applicant on 20.7.2023. It is also stated that the said order is without application of mind. The case of the applicant is at par with the co-accused person, as such, he is also entitled for anticipatory bail. Learned counsel has next stated that one more FIR has been instituted against him of similar nature and he has applied for anticipatory bail in this case, which is pending before this Court. It is next stated that the applicant has no previous criminal history except the two said FIRs. 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. and learned counsel for the informant have vehemently opposed the prayer for anticipatory bail on the ground that the case of the applicant is at a different footing to that of the co-accused person Jitendra @ Pintu Dubey, as the main accused person Ashutosh Singh @ Shivam has transferred amount from his account of Axis Bank to the account of the applicant, as such, he is not entitled for anticipatory bail. Learned A.G.A. has also informed that the proceedings u/s 82 Cr.P.C. are complete against the applicant on 5.10.2023, well before the institution of the present application.

7. In rebuttal, learned counsel for the applicant has stated that the anticipatory bail application of the applicant was rejected by Sessions Judge, Fatehpur on 20.7.2023 and he was suffering from Chikungunya, as such, he could not come to this Court and apply for anticipatory bail.

8. Considering the rival submissions advanced by the learned counsel for the parties and also the fact that the money has been transferred to the account of the applicant from the account of the co-accused persons Shailendra Singh @ Raju Yadav, coupled with the fact that the proceedings u/s 82 Cr.P.C. against the applicant are already complete on 5.10.2023, 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.

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

10. 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 :- 1.12.2023

Shalini