

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12842 of 2023

Applicant :- Parvez Akhtar Beg

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

Counsel for Applicant :- Zia Naz Zaidi, Mohammad Haadi Zaidi

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. This application has been moved on behalf of the applicant **Parvez Akhtar Beg** seeking anticipatory bail in Case Crime No.1126 of 2012, under Sections 420, 467, 468, 471, 120-B IPC, Police Station Kotwali Nagar, District Muzaffar Nagar.

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

3. A cheque amounting to Rs.96,000/- relating to State Bank of India was submitted in the Punjab National Bank for clearance in favour of Amit Kumar and the payment was made accordingly. Subsequently it was found that fraud had been committed with the Bank and the said cheque was a forged cheque. F.I.R. was lodged and after investigation now charge-sheet has been submitted in the matter.

4. It has been argued by the learned counsel for the applicant that applicant is innocent and he has apprehension of his arrest in the above-mentioned case, whereas there is no credible evidence against them. Allegations levelled against the applicant are false. The investigation of the case has been completed and charge-sheet has been filed and cognizance has been taken by the Court concerned. It is also submitted that the applicant had absolutely no role in the alleged payment against the forged cheque. In 2010 - 11, when the incident occurred, business facilitators were appointed in the Bank and it was their duty to collect the customers for the Bank and the said account in the name of Amit Kumar was opened after due verification of his whereabouts and he was brought by business facilitator Ajay Kumar Sharma. It is also submitted that the present applicant was the Branch Manager in the Bank and on the basis of the report of business facilitator and after verification of the ration card, voter card I.D., the account

was opened in the name of Amit Kumar. It is also submitted that no fraud has been committed by the present applicant nor any wrongful gain has been obtained by him. The applicant has been cooperative during investigation. It is also submitted that the bank officials have given their statement to the I.O. of the case in support of the present applicant. After submission of charge-sheet, the applicant has not been declared as a proclaimed offender by the trial court. In case applicant is granted anticipatory bail, he shall not misuse the liberty of bail and would obey all conditions of bail.

5. Per contra, learned A.G.A. has opposed the prayer for anticipatory bail and argued that being the Branch Manager in the Bank during the relevant period, the present applicant was under obligation to make a thorough investigation and proper verification of relevant records / documents before opening the bank account of any person. Present applicant in collusion with other co-accused deliberately allowed the fraud to be happened with the Bank and he is not entitled for anticipatory bail in the light of the facts and circumstances of the case.

6. 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.

7. 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, in my view, it is not a fit case for anticipatory bail to the applicant.

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

Order Date :- 6.12.2023

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