

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12896 of 2023

Applicant :- Smt. Madhuri Tyagi

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

Counsel for Applicant :- Manish Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav,J.

1. Heard Sri Manish Kumar, learned counsel for the applicant and learned Additional Government Advocate for the State as well as perused the material available on record.
2. This anticipatory bail application (under section 438 Cr.P.C.) has been moved seeking bail in Case Crime No.942 of 2020, under Sections 420, 406, 504, 506, 354 IPC, Police Station- Phase-III Noida, District- Gautam Buddha Nagar.
3. As per allegation made in the FIR, the applicant as well as other accused persons cheated the first informant and her sister and embezzled of more than Rs.75/- lacs. It is admitted that Rs.85,000/- has been credited in the account of the applicant and N.B.W. as well as proceedings initiated against the applicant under Section 82 Cr.P.C.
4. Learned counsel for the applicant submitted that the applicant is a lady aged about 57 years has been falsely implicated in the present case. The applicant has no concern with the alleged incident. Learned counsel for the applicant claims parity with the similarly placed co-accused, namely, Pawan Tyagi, who has been granted anticipatory bail by the co-ordinate Bench of this Court vide order dated 29.7.2023 passed in Criminal Misc. Anticipatory Bail Application No.12649 of 2023. He submitted the applicant has no criminal history as has been mentioned in paragraph no. 26 of the affidavit. Learned counsel for the applicant further submitted that applicant has apprehension of imminent arrest and in case, applicant is released on anticipatory bail, he will not misuse the liberty and would co-operate with the trial.

5. Learned A.G.A. has opposed the prayer for anticipatory bail of the applicant. He has submitted that there is a serious allegation against the applicant and the proceedings under Section 82 Cr.P.C. has been initiated against the applicant. In support of his contention, he has placed reliance upon the judgment of the Apex Court passed in the case of **Lavlesh Vs. State (NCT of Delhi), 2012 (8) SCC 730**, therefore, the applicant is not entitled to grant of anticipatory bail. The apprehension of the applicant is not founded on any material on record. Only on the basis of imaginary fear, anticipatory bail cannot be granted.

6. After having very carefully examined the submissions made by the learned counsel for the applicant and perused the material brought on record, there is no justification for granting anticipatory bail to the applicant. The prayer for grant of anticipatory bail is hereby **refused**.

7. Accordingly, this application under Section 438 Cr.P.C. is **dismissed**. Applicant is advised to move regular bail application before the appropriate forum within one week from today, and if, such application is given, the court below shall consider and disposed of the bail application expeditiously in accordance with law.

Order Date :- 1.12.2023
Krishna*