

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 13009 of 2023

Applicant :- Rahul Sharma

Opposite Party :- State of U.P.

Counsel for Applicant :- Ankit Agarwal

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised. Heard Sri Ankit Agarwal, learned counsel for the applicant as well as Sri Pranshu Kumar, learned A.G.A. for the State and also perused the record.

2. The present anticipatory bail application has been filed on behalf of the applicant in Case No. 28729 of 2021, arising out of F.I.R./Case Crime No. 755 of 2019, under Sections 420, 406, 504, 506 IPC, Police Station Banna Devi, District Aligarh, with a prayer to enlarge him on anticipatory bail.

3. This is the second anticipatory bail application filed on behalf of the applicant. The first one was rejected by this Court on the ground that the applicant had agitated the provisions of Section 482 Cr.P.C. and had failed, as such, he is not entitled for anticipatory bail in light of paragraph 43 of the settled law of this Court in the case of ***Shivam Vs. State of U.P. and Another, reported in AIROnline 2021 All 484***, vide order dated 11.5.2023 passed in CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 5317 of 2023

5. As a new ground, learned counsel for the applicant has argued at bar that subsequent to it, similarly placed co-accused persons Arvind Kumar Sharma and Mukesh Kumar @ Deepak have been enlarged on anticipatory bail by a co-ordinate Bench of this Court vide order dated 18.5.2023 passed in CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. Nos. - 5299 of 2023, as such, the applicant is also entitled for anticipatory bail on the ground of parity. In case, the anticipatory bail application of the applicant is allowed, he will not misuse the liberty and shall cooperate with trial.

6. The said ground of parity of the applicant does not hold good, as

the said order of the co-ordinate Bench dated 18.5.2023 has not taken into consideration the judgement of this Court passed in ***Shivam (supra)***.

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

9. 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 :- 18.12.2023
Shalini