

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 13240 of 2023

Applicant :- Pritpal Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajay Kumar Upadhyay

Counsel for Opposite Party :- G.A., Vijay Pratap Singh

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 **Pritpal Singh** seeking anticipatory bail in Complaint Case No.3766 of 2001, under Section 406 IPC, Police Station Kotawali, District Basti.

3. Mahendra-D.I. Vehicle was purchased but finance by the complainant from the applicant, who is the property dealer of Sardar Motors but the said vehicle was financed on a price excess than the quotation and also on excessive rate of interest and it was used by the accused for his own benefit on rent alleging the above allegations. The criminal complaint was filed against him and the present applicant alongwith other co-accused persons was summoned to face trial under Sections 406, 419, 420 I.P.C. by the court of Chief Judicial Magistrate, Basti vide order dated 07.08.2001.

4. It has been submitted 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 him. Allegations levelled against the applicant are false. It is further submitted that the summoning order was challenged by way of Criminal Revision No.224 of 2002, which was purely allowed and Sections 419, 420 I.P.C. were deleted and the summoning order remain intact under Sections 406 I.P.C. It is next submitted that subsequently, an Application U/s 482 Cr.P.C. No.8199 of 2004 was preferred by the applicant before the Court vide order dated 31.08.2004, further proceedings of the stay complaint case was stayed by this Court. It is next submitted that another complaint bearing Complaint Case No.2340 of 2010 on

the same allegations was again filed by the complainant concealing the facts of the previous complaint and a summoning order under Sections 417, 420, 406, 468, 120-B was passed against the present applicant vide order dated 28.10.2010 and in this way, two criminal complaints were filed in respect of the same offence. It is next submitted that in the subsequent case, the applicant obtained regular bail from the court and subsequently, both the cases were clubbed. It is next submitted that the applicant is an old and ailing person and he has been cooperative with the trial court so far and as such, he is entitled for anticipatory bail.

5. Per contra, learned A.G.A. vehemently opposed the anticipatory bail application and it has been submitted that in an Application U/s 482 Cr.P.C. No.8199 of 2004, no stay order is operative at present although the said proceedings is still alive. It is further submitted that the present applicant never appeared before the court concerned after the summoning order was passed in 2001 and he has been absent for a period of about 22 years. It is next submitted that non-bailable warrant has been issued against the present applicant by the court. It is also submitted that although no process under Sections 82 & 83 Cr.P.C. has been issued so far against the present applicant but it is significant to be pointed out that the present applicant has kept the court waiting for his appearance for a long period of about 22 years. It is further submitted that the applicant was very well known of the fact that no stay order is operative in the proceedings under Section 482 Cr.P.C. but in respect of that, he did not appear before the court knowingly and had been deliberately absconding for such a long period of about 22 years. It has been submitted that in case applicant is granted anticipatory bail, he shall not misuse the liberty of bail and would obey all conditions of bail.

6. Learned A.G.A. opposed the prayer for anticipatory bail.

7. Since it is a complaint case but in ***Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1***, the Hon'ble Apex Court has settled the controversy finally by holding the anticipatory bail need not be of limited duration invariably. In appropriate case, it can continue upto conclusion of trial.

It has been further held therein that anticipatory bail granted can, depending on the conduct and behavior of the accused, continue after filing of the charge sheet till end of trial.

It has been further held by the Hon'ble Apex Court 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, all attending facts and circumstances of the case and the fact that allegations are serious in nature, without expressing any opinion on the merits of the case, in my view, it is not a fit case for anticipatory bail to the applicant. Prayer made in the application is refused.

9. The application is **rejected**.

Order Date :- 7.12.2023

Shivangi