

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 13182 of 2023

Applicant :- Lakshaman Singh And Another

Opposite Party :- State Of Up Thru Its Secratery Home

Counsel for Applicant :- Manish Kumar Kashyap, V.P. Singh Kashyap

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. Heard learned counsel for the applicants, learned A.G.A. for the State and perused the record.
2. This application has been moved on behalf of the applicants- Lakshman Singh and Abhimanyu seeking anticipatory bail in Case Crime No. 474 of 2019, under Sections 420, 406 IPC, Police Station Nazibabad, District- Bijnor.
3. Several persons opened their account in Kalpwat Real Estate Ltd., Branch Office-Najibabad, Bijnor through the agents and they invested about Rs. 6.5 crore in the aforesaid company but after maturity, no payment was made by the company to the account holders. Some agents of company lodged F.I.R. against the officials of the company including present applicants on 11.09.2019 and investigation started, which is culminated into charge-sheet.
4. It is further submitted that no wrongful gain has been obtained by the present applicants. They are simply employees in the company and money deposited by account holders has been deposited in the account of company and high officials of the aforesaid company are responsible to repay the same to concerned account holders. It is further submitted that during course of investigation, present applicants have been co-operative. No witness has stated before the Investigating Officer that money was ever paid by any person straightway to present applicants and they never collected any money from the depositors or agents of the company. The directors and high officials of the company are responsible for repayment of money to customers and no liability can be fastened upon the present applicants. It is further submitted that applicants are having no criminal antecedents to their credit and they are entitled for their anticipatory bail.
5. Per contra, learned A.G.A. vehemently opposed the bail application and it is submitted that applicant no. 1-Lakshman

Singh was working as Branch Manager and applicant no. 2-Abhimanyu as Area Manager in the Kalpwat Real Estate Ltd., Branch Office-Najibabad, Bijnor. They are ordinary agents or employees of the company and the officers, who are working as high officials in the aforesaid company and they are responsible for the business and deposition of money and repayment of the same as high officials of the company. It is further submitted that about seven crores rupees have been mis-appropriated and a large number of public has been cheated by the present applicants and other officials of the company and no money has been repaid so far to any of the poor customers. It is further submitted that offence relates to misappropriation of public exchequer; it is very serious and grave and present applicants have actively participated in the commission of alleged crime and they are, as such, not entitled for anticipatory bail.

6. In the facts and circumstances of the case and keeping in view the fact that both the present applicants have been working on high posts in the company and they cannot escape from their liability to repay the amount to the poor customers, hence this court is not inclined to grant anticipatory bail to the applicants.

7. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has settled 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.

8. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicants and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, I deem it not a fit case to grant anticipatory bail to the present applicants. Prayer made in the application is refused.

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

Order Date :- 6.12.2023/Vibha