

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 13219 of 2023

Applicant :- Vakil Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Sudarshan Singh

Counsel for Opposite Party :- G.A., Ashutosh Kumar Pandey

Hon'ble Nalin Kumar Srivastava, J.

1. Heard learned counsel for the applicant, learned AGA and perused the material available on record.

2. This application for anticipatory bail has been filed by applicant- **Vakil Yadav** in connection with Case Crime No. 284 of 2014, under sections 419, 420, 323, 504, 506, 120-B IPC, P.S. Chandauli, District Chandauli.

3. It is alleged in the F.I.R. that Dukkhu, the husband of the informant Kanchan Devi is mentally insane and the present applicant along with other co-accused persons obtained a sale deed in their favour and an F.I.R. was lodged on 25.03.2014 and investigation started, which has been culminated into charge sheet.

4. It has been submitted by the learned counsel for the applicant that applicant is innocent and he has apprehension of arrest in the above-mentioned case, whereas there is no credible evidence against him. Allegations levelled against the applicant are false. Charge sheet in the matter has been submitted. It is further submitted that the F.I.R. of this case has been lodged belatedly on the basis of an Application U/s 156(3) Cr.P.C. against four named accused persons but the present applicant is not named in the F.I.R. It is next submitted that the charge sheet of this case was challenged by co-accused persons before this Court in an Application U/s 482 Cr.P.C.No.26260 of 2015 and the further proceedings of the case were stayed by the coordinate Bench of this Court vide order dated 03.09.2015 but subsequently the said order was not extended. It is further submitted that the present applicant had absolutely no knowledge about his implication in the present case and no process was received by him. It is next submitted that two sale deeds in respect of Plot Nos.58 & 59 are

said to be executed by Dukkhu, the husband of the informant but the said two sale deeds have been executed in favour of Smt. Tirthraji and Smt. Sushma respectively and the present applicant is neither the beneficiary nor the marginal witness in any of the sale deeds and no consideration has been passed in his favour whereas Rajesh S/o Dukkhu, who is the son of the informant as well is the marginal witness in one of the sale deeds. It is next submitted that the criminal history of one solitary case of the present applicant has been explained by way of supplementary affidavit. It is further submitted that during investigation, the applicant has been cooperative with the I.O. of the case. It is also submitted that after submission of the charge sheet, he is entitled for anticipatory bail. In case applicant is granted anticipatory bail, he shall not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. has opposed the prayer for anticipatory bail and it has been vehemently argued that the present applicant who is the master mind of whole crime has a role of active participation in the crime and in the criminal conspiracy to commit the said crime. It is next submitted that the ample evidence has been collected against him in respect of the allegations alleged in the F.I.R. but however, he could not dispute the factual aspect of the matter that no sale deed has been executed in favour of the present applicant and no consideration amount has been received by him.

6. In the present matter, prima facie, it appears that no wrongful gain has been obtained by the present applicant in his favour.

7. Although the charge sheet has been submitted in this matter, 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 and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, in my view, it is a fit case for anticipatory bail to the applicant till conclusion of trial in the matter.

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

10. In the event of arrest of the applicant in the aforesaid case crime, he shall be released on anticipatory bail on his furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the Court concerned with the following conditions :-

(i) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

(ii) The applicant shall not pressurize/ intimidate the prosecution witness.

(iii) The applicant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

(iv) The applicant shall not leave India without prior permission of the Court and if they have passport, the same shall be deposited by him before the S.S.P./S.P. concerned.

11. In case of breach of any of the above conditions, the Investigating Officer shall be at liberty to file appropriate application for cancellation of anticipatory bail of the applicant in accordance with law.

Order Date :- 7.12.2023

Shivangi