Court No. - 73
Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 13557 of 2023
Applicant :- Sachin Kumar
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Ayush Kaushik
Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. This application has been moved on behalf of the applicant **Sachin Kumar** seeking anticipatory bail in Case Crime No. 08 of 2023, under Sections 420, 467, 468, 471 IPC and 66-C, 66-D Information Technology (Amendment Act), Police Station Cyber Crime Saharanpur, District Saharanpur.

2. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

3. 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 I.D. of the present applicant has not been used in commission of the crime. No incriminating material has been recovered from the possession or the place under the control of the applicant. It is also submitted that the name of co-accused Shan Rizvi came into light during investigation and on the basis of statement of the aforesaid co-accused, name of the present applicant came on the surface. No wrongful gain has been obtained by the present applicant. The investigation of the case is going on and the applicant is cooperating with the same. 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.

4. Learned A.G.A. opposed the prayer for anticipatory bail and submitted that on the basis of statement of co-accused Shan Rizvi a raid was conducted in the house of the present applicant and certain incriminating articles including the mark-sheets of the Glocal University, Saharanpur, which were fake, were retrieved from the house of the present applicant in the presence of his brothers. It is also submitted that it is a case of cyber crime and investigation in the matter is going on and till date ample evidence

has been collected against the applicant to connect him with the alleged crime. It is further submitted that the incriminating articles, which are said to be recovered from the house of the applicant, belong to the applicant himself as stated by his own brother Saurabh.

5. In this matter, it appears that a forged website of Glocal University, Saharanpur was prepared with the motive to get the forged admissions in the aforesaid University. F.I.R. was lodged against unknown accused persons and during investigation name of the present applicant came into light. It also reveals that present is a case of cyber crime and a specialized investigation is required in such type of cases. The Courts throughout the country are over flooded with the cases regarding cyber crime now a days and this is a new way of crime where the actual culprit or accused is not visible but is completely involved in commission of the crime. Sufficient and ample evidence has been collected against the applicant during investigation so far.

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

7. 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.

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

Order Date :- 8.12.2023

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Digitally signed by :-
MAHBOOB SAFI
High Court of Judicature at Allahabad