

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S
438 CR.P.C. No. - 13644 of 2023

Applicant :- Lokendra And Another

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Sudhir Kumar Agarwal

Counsel for Opposite Party :- G.A.,Abhishe Pandey,Praveen Singh

Hon'ble Krishan Pahal,J.

1. List has been revised. Supplementary affidavit filed today by the learned counsel for the applicants is taken on record.
2. Heard Sri Sudhir Kumar Agarwal, learned counsel for the applicants and Sri Praveen Singh, learned counsel for the informant as well as Ms. Ifra Islam, learned A.G.A. for the State and also perused the material available on record.
3. The present anticipatory bail application has been filed on behalf of the applicants in F.I.R./Case Crime No. 102 of 2023, under Sections 420, 406, 323, 506 of IPC, Police Station Civil Line, District Muzaffar Nagar, with a prayer to enlarge them on anticipatory bail.
4. As per prosecution story, the applicants along with co-accused person Rajan are stated to have duped the informant to the tune of Rs.4.50 lakhs on the pretext that he shall be accorded a job in the Electricity Department.
5. Learned counsel for the applicants has stated that they are maliciously being prosecuted in the present case due to ulterior motive and have apprehension of their arrest. They have nothing to do with the said offence as alleged by the prosecution. Learned counsel has further stated that criminal history of one case assigned to the applicants stands explained by means of supplementary affidavit filed today in Court. In the said case, the applicant no.1 is on bail and the applicant no.2 has been released by complying with the notice issued u/s 41-A of Cr.P.C.
6. Several other submissions have been made on behalf of the applicants to demonstrate the falsity of the allegations made against them. The circumstances which, as per counsel, led to the false implication of the applicants have also been touched upon at length. In case, the anticipatory bail application of the applicants is allowed, they will not misuse the liberty and shall cooperate with trial.
7. On the other hand, learned A.G.A. has vehemently opposed the prayer for grant of anticipatory bail but unable to dispute the submissions raised by the learned counsel for the applicants.
8. Considering the arguments advanced by the learned counsel for the parties, nature of accusations and antecedents of the applicants, the applicants are liable to be enlarged on anticipatory bail in view of the law laid down by the Apex Court in the case of "**Sushila Aggarwal Vs. State (NCT of Delhi) (2020) 5 SCC 1**". The future contingencies regarding the

anticipatory bail being granted to applicant shall also be taken care of as per the aforesaid judgment of Apex Court.

9. Without expressing any opinion upon ultimate merits of the case either ways which may adversely affect the trial of the case, the anticipatory bail application of the applicants is **allowed**.

10. In the event of arrest of the applicants, **Lokendra** and **Smt. Sheela** involved in the aforesaid case crime number, shall be released on anticipatory bail till the conclusion of trial on furnishing a personal bond with two sureties each in the like amount to the satisfaction of the Presiding Officer/Court Concerned, with the conditions that:-

- i. that the applicants shall make themselves available for interrogation by a police officer as and when required;
- ii. that the applicants 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;
- iii. that the applicants shall not leave India without previous permission of the court;
- iv. that the applicants shall not tamper with the evidence during the trial;
- v. that the applicants shall not pressurize/ intimidate the prosecution witness;
- vi. that the applicants shall appear before the trial court on each date fixed unless personal presence are exempted;

11. In case of breach of any of the above conditions, the court concerned shall have the liberty to cancel the bail granted to the applicants.

12. It is made clear that observations made in granting anticipatory bail to the applicants shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 16.12.2023
Siddhant