

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 284 of 2023

Applicant :- Sandeep Kumar Bose

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home And Others

Counsel for Applicant :- Rajendra Prasad Sharma

Counsel for Opposite Party :- G.A., Anand Swaroop Singhal, Jaya, Shiv

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Rajendra Prasad Sharma, the learned counsel for the applicant, Ms. Arti Gupta Singh, the learned AGA for the State and perused the records.

2. On 07.07.2023, after hearing the learned counsel for the parties, this Court had passed the following interim order -

"The present bail application under Section 438 Cr.P.C. has been filed seeking anticipatory bail in case crime No.0030/2021 under sections 406, 420, 467, 468, 471, 120-B I.P.C., P.S. Hasan Ganj, Lucknow, district Lucknow.

Heard learned counsel for the applicant and learned Additional Government Advocate for the State who has raised a preliminary objection that the applicant has directly approached this court instead of filing anticipatory bail application before the Sessions Court in view of the judgment passed by a Full Bench of this court dated 2.3.2020 in Anticipatory Bail Application No.1094 of 2020 Ankit Bharti versus State of U.P. and another.

Learned counsel for the applicant submits that the applicant is presently posted in Kolkata as Assistant General Manager, UCO Bank and due to this exceptional circumstance, he is compelled to file present application directly before this court.

Reason assigned by learned counsel for the applicant appears to be sufficient to entertain the anticipatory bail application.

In the prosecution case, it is alleged that the accused persons on the basis of forged documents have taken housing loan in different loan accounts in the year 2015 to the tune of R.1,12,00,000/- and due to non-payment of loan, the said loan account has been declared Non Performing Asset (NPA). The first information report has been lodged by Chief Manager of UCO Bank, I.T. college Branch.

It is next submitted that the applicant has been falsely implicated. It is not possible for the branch head to check genuineness of the property papers.

There is a system for verification of genuineness of the document. There is an Advocate of the bank empaneled for this purpose who has already given his report that the property mortgaged by the borrowers/co accused is genuine and can be mortgaged. The applicant has not committed any offence. The applicant has sanctioned loan after following due procedure. There is no fault of the applicant.

It is submitted that on a notice issued by the investigating officer dated 13.12.2022, the applicant appeared before the investigating officer on 15.12.2022 and gave his statement. He has cooperated in the investigation. He further undertakes to cooperate in the investigation. Even after the statement of the applicant has been recorded, the investigating officer is making phone calls to the applicant and unnecessarily harassing him without giving proper notice. In case such a notice is given by the investigating officer, the applicant shall appear before him.

Learned A.G.A. who is allowed fifteen days' time to file objections, on the basis of instructions submits that as of now, the complicity of the applicant has not been found. He assures that the applicant shall not be harassed unnecessarily by the I.O. by making phone calls and only notice as prescribed shall be given to the applicant in case it is required.

Issue notice to respondent No.4.

List on 15.3.2023.

Considering the above aspects of the matter, perusal of the record, the fact that the applicant is presently posted in Kolkata and he has already given his statement before the investigating officer, as also the judgment in Sushila Aggarwal and others versus State (NCT of Delhi) and another (2020)5 SCC 1 and without entering into the merit of the case, it would be appropriate to grant interim protection to the applicant under Section 438 Cr.P.C.

Till filing of the police report, it is provided that in the event of arrest, the applicant shall be released on bail on his furnishing a personal bond and two sureties of the like amount to the satisfaction of the arresting officer/I.O./S.H.O. concerned.

The applicant shall cooperate in the investigation and he will not influence the witnesses. The accused-applicant will remain present as and when the arresting officer /I.O./ S.H.O. concerned call (s) for investigation/interrogation. The applicant shall not leave India without previous permission of the Court.

In case of default, it would be open for the investigating agency to move application for vacation of this interim protection."

3. Although a counter affidavit has been filed, nothing has come to light which may persuade this Court to take a view, different from the view taken while passing the aforesaid order, nor the learned A.G.A. has pointed out violation of any of the conditions of interim anticipatory bail committed by the applicant.

4. In view of the aforesaid circumstances, the interim order dated 07.07.2023 is hereby made absolute and the application is ***allowed*** in terms of the aforesaid order.

5. The applicant shall appear before the trial court and furnish bail bonds within a period of two weeks from today.

Order Date :- 2.11.2023

Pradeep/-