

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 806 of 2022

Applicant :- Awdhesh Kumar Mishra

Opposite Party :- State Of U.P. Thru Addl.Chief Secy. Home Lucknow And Anr.

Counsel for Applicant :- Anurag Shukla,Abhishek Mishra,Preeti Shukla (Tiwari)

Counsel for Opposite Party :- G.A.,Adarsh Kumar Maurya,Ajay Kumar Shukla,Chetan Dungrakoti

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Anurag Shukla, learned counsel for the applicant, Smt Parul Kant, the learned Additional Government Advocate appearing on behalf of the State and Sri Adarsh Kumar Maurya, learned counsel for the informant and perused the records.

2. The instant application has been filed by the applicant seeking anticipatory bail in F.I.R. bearing Case Crime No.296 of 2017 under Sections 406 and 420 I.P.C., registered at Police Station Gola, District Lakhimpur Kheri.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 24.06.2017 against the applicant and one Aadesh Mohan Bajpayee alleging that the informant had made some investments in 'Vetanbhogi Sahkari Rin Samiti Public Inter College, Gola District Kheri.' When he went to withdraw the amount invested by him, the accused declined it. The FIR alleges that co-accused Aadesh Mohan Bajpayee has embezzled a sum of Rs.1.2 Crores.

4. The applicant has been implicated merely for the reason that he was holding the post of Principal and was *ex officio* Chairman of the Society.

5. In the affidavit filed in support of the anticipatory bail-application, it has been contended that the applicant is innocent, he has no criminal history and he has falsely been implicated in the present case. It has

been further stated in the affidavit that co-accused, Aadesh Mohan Bajpayee has given a declaration on oath confessing his guilt in commission of the offence.

6. Learned counsel for the informant has submitted that receipts of deposits were signed by the applicant also along with other co-accused persons and, therefore, he is equally responsible for commission of the offence.

7. Having considered the aforesaid facts and circumstances of the case, I am of the view that mere fact of signing the receipts of the deposits would not make the applicant *prima facie* guilty of the commission of the offence of embezzlement, more particularly when the other co-accused person has confessed that he has committed the offence.

8. The applicant was granted interim anticipatory bail on 06.07.2022.

9. Although a counter affidavit has been filed on behalf of the State but learned A.G.A. did not point out any violation of the conditions of interim anticipatory bail committed by the applicant. Nothing has come to light which may persuade this court to take a view, other than the view taken at the time of granting interim anticipatory bail to the applicant.

10. In view of above, the interim order dated 06.07.2022 is made absolute and the anticipatory bail application is **allowed**.

Order Date :- 10.10.2023
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