

**Court No. - 11**

**Case :-** CRIMINAL MISC ANTICIPATORY BAIL  
APPLICATION U/S 438 CR.P.C. No. - 1430 of 2023

**Applicant :-** Mohit Kumar Pathak

**Opposite Party :-** State Of U.P. Thru. Prin. Secy. Home Lko.

**Counsel for Applicant :-** Sharad Pathak

**Counsel for Opposite Party :-** G.A.

**Hon'ble Dinesh Kumar Singh,J.**

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

The present application under Section 438 Cr.P.C. has been filed by the applicant seeking bail in anticipation of arrest of the accused-applicant in FIR No.0012 of 2022, under Sections 409, 120- B 13 (1) (a) and 13 (2) of Prevention of Corruption Act, Police Station - Lucknow (vigilance) lodged by Uttar Pradesh Vigilance Cell.

The accused is the Village Development Officer. Allegation against him is that he has made excess payment for installation of 58 dustbins and thus misappropriated the excess amount and caused loss to the Government Exchequer.

Shri Pathak learned counsel for the accused applicant submits that three firms were recommended by the District Panchayati Raj Officer for installation of dustbins. The petitioner got the quotations from three firms and provided the contract to the firm with lowest quotation and got the dust bins installed. It is further submitted that the FIR has been registered against as many as 182 people in respect of 66 villages. The petitioner was responsible in respect of only 6 villages and he got installed 58 dustbins. He further submits that the accused applicant is willing to deposit the alleged excess amount subject to him being enlarged on anticipatory bail.

Learned A.G.A. has opposed the prayer but considering the fact that the accused-applicant is Village Development Officer and it would be difficult for him to ignore the direction issued by the District Panchayat Raj Officer. This Court deems it appropriate to enlarge/release the accused-applicant on bail in FIR No.0012 of 2022, under Sections 409, 120- B 13 (1) (a) and 13 (2) of Prevention of Corruption Act, Police Station - Lucknow (vigilance) lodged by Uttar Pradesh Vigilance Cell.

Let the applicant- Mohit Kumar Pathak, who is involved in

aforementioned case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions.

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the Trial Court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A IPC.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C., may be issued and if applicant fails to appear before the Court on the date fixed in such proclamation, then, the Trial Court shall initiate proceedings against him, in accordance with law, under Section 174-A IPC.

(iv) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

**Order Date :- 23.6.2023**

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