

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2027 of 2023

Applicant :- Om Prakash Tiwari

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Deptt.
Of Home Civil Sectt. Lko.

Counsel for Applicant :- Indra Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Counter affidavit filed today is taken on record.
2. Heard Sri Indra Pratap Singh, the learned counsel for the applicant as well as Sri Anant Pratap Singh, learned A.G.A. appearing on behalf of the State and perused the records.
3. The instant application has been filed by the applicant seeking anticipatory bail in F.I.R. bearing Case Crime No. 259 of 2019, under Sections 406, 419, 420 I.P.C., registered at Police Station Kumarganj, District Faizabad/Ayodhya.
4. The aforesaid case has been registered on the basis of an F.I.R. lodged on 19.11.2020 against five persons, including the applicant, stating that the informant himself was a director in Shriram Bullian Nidhi Limited Company. On the instructions of co-accused Ramesh Kumar Tiwari, huge sums of money were transferred to several persons from the aforesaid company and co-accused Ramesh Kumar Tiwari withdrew Rs. 2.5 Crores in cash from the Company. None of the persons refunded the money to the company. Later on the informant came to know that all the accused persons have formed a gang and they are engaged in duping people.

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

6. The State has filed a counter affidavit opposing the bail application and stating that non bailable warrant was issued against the applicant.

7. A supplementary affidavit has been filed by the applicant stating that the applicant resides in District Raipur, Chattisgarh and summons of the cases were not served upon him and he could not appear before the Investigating Officer for the aforesaid reason.

8. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the F.I.R alleges non refund of moneys paid by a Company to various persons and it does not contain any allegation against the applicant; the F.I.R merely mentions that on making inquiries, the informant came to know that the accused persons have formed a gang but neither the source of information has been disclosed nor any act committed by the applicant or any other alleged member of the gang which may amount a commission of an offence, alleged in the F.I.R and that the applicant has no criminal history and without making any observations which may affect the outcome of the case, I am of the view that the aforesaid facts are sufficient for making out a case for granting anticipatory bail to the applicant.

9. In view of the above, the anticipatory bail application of the applicants is allowed. In the event of arrest/ appearance of applicant- **Om Prakash Tiwari** before the learned Trial Court in the aforesaid case crime, he shall be released on anticipatory

bail on his furnishing personal bond and two solvent sureties, each in the like amount, to the satisfaction of S.H.O./Court concerned on the following conditions and subject to any other conditions that may be fixed by the Trial Court:

(i). That the applicant shall appear before the trial court on each date fixed, unless personal presence is exempted;

(ii). That the applicant 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 applicant shall not pressurize/ intimidate the prosecution witness;

(Subhash Vidyarthi, J.)

Order Date :- 28.10.2023

Preeti.