

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2702 of 2023

Applicant :- Virendra Kumar Awasthi And Another

Opposite Party :- State Of U.P. Thru. Prin. Secy. Lko And Another

Counsel for Applicant :- Nisha Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Ms. Nisha Srivastava, the learned counsel for the applicants as well as Sri Rao Narendra Singh, the learned Additional Government Advocate appearing on behalf of the State and perused the records.

2. The instant application has been filed by the applicants seeking anticipatory bail in F.I.R. bearing Case Crime No. 127 of 2022, under Sections 419, 420, 467, 468, 471 IPC, Police Station Kotwali Nagar, District Barabanki.

3. The aforesaid case has been registered on the basis of an FIR lodged on 07.02.2022 against the Manager of Oriental Bank of Commerce, Satrikh Naka, Barabanki and an unknown person, alleging that some unknown person has taken a loan of Rs. 8,50,000/- by mortgaging the land which was owned by the informant's father. During investigation, the Investigating Officer recorded statement of a co-accused Vivek Bhushan Srivastava, who stated that a co-accused had introduced him to the applicant and one Manoj Singh and all of them had planned to obtain a loan by mortgaging the land of the informant's father. He stated that the applicant and one Krishna Bihari had taken him to the bank for taking the loan. His bank account was also opened. He stated that the applicant and other co-accused persons were involved in taking the loan on the basis of fake documents.

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

5. The learned AGA has opposed the bail application and on the basis of instructions he has stated that the applicant is involved in another case bearing Case Crime No. 460 of 2022, under Sections 323, 504, 506 IPC, Police Station Ram Nagar, District

Barabanki.

6. The learned counsel for the applicant has submitted that co-accused Hari Shankar Mishra alias Puttan has been granted anticipatory bail by means of an order dated 03.08.2023 passed by this Court in Criminal Misc. Anticipatory Bail Application No. 1723 of 2023.

7. The learned AGA has opposed the claim of the applicant for grant of anticipatory bail on the ground of parity and he has submitted that the aforesaid order has been passed on a wrong factual premise. That he had merely witnessed execution of the loan whereas he was not a witness and he was a mastermind of the plan for defrauding the bank. He has submitted that appropriate action will be taken for cancellation of the aforesaid order dated 03.08.2023.

8. The learned counsel for the applicant has submitted that another co-accused person Rakesh has been granted regular bail in the present case by means of an order dated 06.04.2023 passed by this Court in Criminal Misc. Bail Application No. 4641 of 2023.

9. Having considered the facts and circumstances of the case, I am of the view that the aforesaid facts do not warrant grant of pre arrest bail to the applicants.

10. The anticipatory bail application is ***rejected*** accordingly. However, in case the applicants file an application for grant of bail, the same shall be considered and decided on its merits, without being influenced by any observations made in this order.

Order Date :- 29.11.2023

Pradeep/-