

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 2396 of 2023

Applicant :- Deshraj Gaud

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

Counsel for Applicant :- Sushil Kumar Misra

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Sushil Kumar Misra, the learned counsel for the applicant as well as Sri Akhilesh Kumar Vyas, the learned Additional Government Advocate appearing on behalf of the State and Sri Vijay Kumar, 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.0350 of 2023, under Section 409 IPC registered at Police Station Sandila, District Hardoi.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 19.08.2023 against the applicant, who was working as Secretary/ Village Development Officer and Ankit Kumar, the then Village Pradhan stating that the accused persons had made payment of Rs.5,14,408/- without completion of work.

4. 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.

5. Learned counsel for the applicant has submitted that the work had been completed and thereafter interlocking tiles were removed by Public Works Department for carrying out some drainage work. He has further submitted that the inquiry in furtherance of which the FIR has been lodged was conducted without taking into consideration the applicant's version.

6. Learned counsel for the informant and learned A.G.A. have vehemently opposed the anticipatory bail application and have submitted that the enquiry was initiated on the basis of complaint lodged by the informant. However, learned counsel for the informant has fairly admitted that in the enquiry, no opportunity of hearing was provided to the applicant.

7. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the FIR merely mentions payment of amount for certain works without completion thereof in furtherance of enquiry conducted behind the back of the applicant; that the applicant has already been suspended and there appears to be no reasonable apprehension of his being able to tamper with the evidence and the applicant being a government servant, there appears to be no reasonable apprehension of applicant's absconding from the process of law, coupled with the fact 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.

8. In view of the above, the anticipatory bail application of the applicant is **allowed**. In the event of arrest/ appearance of **applicant-Deshraj Gaud** 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;

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(Subhash Vidyarthi, J.)

Order Date :- 28.10.2023
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