

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 2397 of 2023

Applicant :- Puneet Kumar Srivastava

Opposite Party :- State Of U.P. Thru. Prin. Secy. Deptt. Home, Lucknow

Counsel for Applicant :- Akash Dikshit

Counsel for Opposite Party :- G.A., Pankaj Kumar Singh

Hon'ble Subhash Vidyarthi, J.

1. On 28.10.2023, after hearing the learned counsel for the applicant and the learned A.G.A. this Court had passed the following interim order:-

"1. Heard Sri Akash Dikshit, 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 Pankaj Kumar Singh, 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.06 of 2022, under Sections 419, 420, 467, 468, 471 I.P.C., 66 and 66D of the Information Technology Act, registered at Police Station S.I.T., District Lucknow.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 20.04.2022 against four named persons, not including the applicant, and some unknown persons alleging that the accused persons are involved in fraudulent withdrawal of amounts from bank accounts of various government employees. The applicant is not named in the FIR and his name got surfaced during investigation as he is working as Junior Clerk in the office of Settlement Officer of Consolidation, Gorakhpur.

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. It has further been stated that the applicant was called for recording his statement by the Special Investigating Team and he appeared on both the occasions, and got his statement recorded and thus he has fully cooperated in the investigation. The applicant being a government servant, there is no reasonable apprehension of his absconding from the process of law.

5. Per contra learned A.G.A. and learned counsel for the informant have vehemently opposed the applicant and they have submitted that the applicant is a part of the conspiracy hatched by a number of persons in which crores of rupees meant to be paid to various government employees, have been wrongly transferred and withdrawal.

6. Replying to the aforesaid submission, learned counsel for the applicant has submitted that not a single rupee has been transferred to the applicant's account and he has not received any benefit from commission of the aforesaid offence.

Learned counsel for the applicant has further submitted that in the enquiry report dated 09.09.2021 submitted by the Settlement Commissioner of Consolidation, it is recorded that illegalities were committed by another person, who was working as Accountant Clerk by preparing a digital signature. Applicant's complicity in commission of the offence has not come to light in the enquiry report.

7. *The matter requires consideration.*

8. *Learned A.G.A. and learned counsel for the informant pray for and are granted two weeks' time to file counter affidavits.*

9. *List in the week commencing 20.11.2023.*

10. *Having considered the aforesaid facts and circumstances of the case, I am of the view that the aforesaid facts are sufficient for making out a case for granting interim anticipatory bail to the applicant.*

11. *In the event of arrest/ appearance of applicant-Puneet Kumar Srivastava before the learned Trial Court in the aforesaid case crime, he shall be released on interim 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."

2. Although counter and rejoinder affidavit has been exchanged. Nothing has come to light which may persuade this Court to take a view, different from the view taken while passing the aforesaid order, nor the learned A.G.A. has pointed out violation of any of the conditions of interim anticipatory bail committed by the applicant.

3. Application is pending since 26.10.2023.

4. Sub-Section 5 of Section 438 of the Cr.P.C. mandates that the anticipatory bail application has to be decided by this Court within a period of 30 days from the date of filing of such an application.

5. In view of above, the interim order dated 28.10.2023 is made absolute and the anticipatory bail application is **allowed**.

6. The learned counsel for the applicant informs that the applicant has already furnished bail bonds.

Order Date :- 30.11.2023

Pradeep/-