Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 2705 of 2023

Applicant :- Dr. Nishi Sharma
Opposite Party :- State Of U.P Thru. Section In Charge Office Distt. Lko.
Counsel for Applicant :- Amarjeet Singh Rakhra,Pranshu Agrawal
Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Amar Jeet Singh Rakhra, the learned counsel for the applicant, Sri Anurag Verma, the learned AGA-I for the State and perused the records.

2. The instant application has been filed by the applicant seeking anticipatory bail in an FIR bearing Case Crime No. 27/2021, under Sections 409, 420, 467, 468, 471, 120-B IPC, Police Station SIT, District Lucknow Rural.

3. The aforesaid case has been registered on the basis of an FIR lodged on 20.07.2021 against 14 sets of persons. The eight set of accused persons implicated in the FIR is 'Anupam Goyal, Secretary and other officers and employees' and the address mentioned against second set of accused persons is 'Institute of Professional Excellence and Management, Gaziabad, U.P. Bharat.'

4. The allegation levelled in the FIR is that in furtherance of a complaint dated 19.06.2019, a special investigation team was constituted which conducted an inquiry and submitted a report to a committee constituted by the Government. During inquiry, it came to light that although the complaint alleged embezzlement of Rs. 200 crore in payment of scholarships to students belonging to Scheduled Caste and Scheduled Tribe categories, merely Rs. 58 crores has been drawn by the concerned institute towards payment of scholarships.

5. The FIR does not disclosed commission of any act by the applicant, which may amount to commission of an offence. The applicant is not named in the FIR.

6. In para 10 and 11 of the affidavit filed in support of the application, it has been stated that the applicant is only an employee of the Institute of Professional Excellence and Management Ghaziabad, and she has no concern with day to day running of the institute. It has further been stated that the applicant is a salaried employee and member of the scrutiny committee. She is neither the owner nor is the founder of the Institute/Society.

7. The learned counsel for the applicant has submitted that the FIR in question was lodged on 20.07.2021, the applicant had cooperated with the investigation and has got his statement recorded by the Investigating Officer and even after expiry of more than two years, the investigation is still going on and charge sheet is yet to be submitted.

8. Three co-accused persons have already granted anticipatory bail in the present case and copies of their bail orders have been annexed as Annexure Nos. 9 to 12 of the affidavit filed in support of the application. Co-accused-Anupam Goel, who is the Secretary of IPEM, has been granted anticipatory bail by this court by means of the order dated 18.11.2023 passed in CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No.2646 of 2023.

9. Sri Anurag Verma, learned A.G.A. has vehemently opposed the bail application and on the basis of instruction, he has submitted that it has come to light during investigation that the institution in question had shown various admission of students in PGDM course during the year 2013-2017 and in connivance with the officers/officials of the Social Welfare Department Ghaziabad, Government money was embezzled in the name of payment of scholarship to the students. He has further submitted that it has come to light during investigation that the applicant was working as Principal of the Institute and she was a Member of the Admission Security Committee and her involvement in commission of the offence is *prima facie* established.

10. Having considered the aforesaid facts and circumstances of the case, coupled with the fact that the applicant has no criminal history, she has cooperated with the investigation and five co-accused persons have already been granted anticipatory bail in the present case, I am of the view that the aforesaid facts are sufficient for making out a case for granting anticipatory bail to the applicant.

11. In view of the above, the anticipatory bail application of the applicant is allowed. In the event of arrest/ appearance of applicant-Dr. Nishi Sharma before the learned Trial Court in the aforesaid case, she shall be released on anticipatory bail on her 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 :- 24.11.2023
prateek

Digitally signed by :-
PRATEEK ARORA
High Court of Judicature at Allahabad,
Lucknow Bench