

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 2777 of 2023

Applicant :- Shesh Nath Chauhan

Opposite Party :- Directorate Of Enforcement Lko.

Counsel for Applicant :- Purnendu Chakravarty, Abhishek
Awasthi, Anuj Taandon

Counsel for Opposite Party :- Rohit Tripathi

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Anuj Tandon, the learned counsel for the applicant as well as Sri Rohit Tripathi, the learned counsel for respondent-Directorate of Enforcement and perused the records.

2. In pursuance of the order dated 31.01.2014 passed by this Court in Writ Petition No.12802 (M/B) of 2011, the CBI had registered an FIR No.RC 4(S)/2014/CBI/SCB/Lucknow on 25.02.2014 under Section 120B read with 409, 420, 468 & 471 IPC and under Section 13(2) read with section 13(1)(d) of Prevention of Corruption Act, 1988 alleging large scale financial bungling, gross irregularities and misappropriation of funds in MANREGA in district Mirzapur during the period 2007-2010. The applicant was not named in the FIR but his name was included in the charge sheet and he was granted anticipatory bail in the aforesaid case by means of the order dated 15.03.2022 passed by this Court in Crl Misc Anticipatory Bail Application No.10725 of 2021.

3. In furtherance of the aforesaid scheduled offence, the Directorate of Enforcement had filed complaint on 12.12.2022 against fourteen persons including the applicant and the allegation against the applicant is that he was posted as Block Development Officer and he had approved a payment of Rs.2,61,192/- for supply of material for MANREGA work, which work was not executed at all. In the statement of the applicant recorded under Section 50 of PMLA, he stated that he had approved the proposal for payment, which proposal was put up by the work Incharge and he had approved the payment after inspecting the site and verifying receipt of construction material.

4. Learned counsel for the applicant has submitted that on the same set of allegations the disciplinary inquiry was initiated against the applicant in which he was exonerated and

subsequently he has been promoted and presently he is working on the post of District Development Officer. He has further stated that neither any proceeds of crime have been recovered from the applicant nor has any of his property been attached.

5. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the applicant already stands discharged of same set of charges in a disciplinary inquiry; in the scheduled offence he has been granted anticipatory bail and that no proceeds of crime alleged to have been recovered from the applicant and that the applicant is a government servant and in case of grant of anticipatory bail, there appears to be no reasonable apprehension of his absconding from the process of law 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.

6. In view of the above, the anticipatory bail application of the applicant is allowed. In the event of arrest/ appearance of applicant-**Shesh Nath Chauhan** 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.

Order Date :- 5.12.2023

Renu/-