

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S
438 CR.P.C. No. - 2978 of 2023

Applicant :- Syed Mehmood Wasiq Warsi

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

Counsel for Applicant :- Atul Verma, Hari Krishna Verma, Mohd Agha
Haider Rizvi, Mohsin Khan

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Atul Verma, the learned counsel for the applicant, Sri Arpit Kumar, learned A.G.A. appearing on behalf of the State as well as Sri G.K. Dikshit, the 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. 131 of 2021, under Sections 406, 419, 420, 467, 468, 471, 120-B I.P.C., registered at Police Station Sushant Golf City, District Lucknow.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 03.04.2021 by an official of U.P. Medical Supplies Corporation Limited (hereinafter to be referred to as the UPMSCL), stating that one M/s Mahadev Exports had given a complaint to the police annexing therewith supply order of PPE Kits worth Rs.9,62,90,726/- which turned out to be fake. The supply order has purportedly been issued by the General Manager of the Corporation which post does not exist. The aforesaid firm had participated in the tender process but its bid had been rejected for technical reasons. It appears that a forgery has been committed for providing wrongful gains to some persons and damaging the image of the corporation.

4. The applicant's involvement in two other cases has been

disclosed in para 59 of the affidavit filed, one of which relates to the allegation of commission of bailable offence and in the other case the applicant has not yet been summoned.

5. In the statement of the victim recorded by the investigating officer, he stated that Kamlesh Gupta, Rajesh Agarwal and Deenanath had offered him to get a supply order from UPMSCL, for which the victim would have to pay Rs. 17 lakhs towards expenses and bribe and the aforesaid three persons had assured that they would get him a supply order from UPMSCL. Acting on their assurance, the victim had paid Rs. 11 lakhs to Kamlesh Gupta and thereafter the aforesaid three persons had projected that the tender of the victim's company had been accepted. Thereafter, the victim sent goods worth Rs. 9,62,90,726/-, which may be received by Kamlesh Gupta.

6. One Faizal Warsi, who was representative of the victim's company, had advised the victim not to supply any goods until payment thereof was received but the victim did not accept the advice of Faizal Warsi and he continues supplying goods.

7. Faizal Warsi was made an accused in the present case and he has been granted bail by means of an order dated 24.11.2023 passed by this court in Criminal Misc. Bail Application No. 13902 of 2023, wherein it is inter alia recorded that the aforesaid co-accused person had applied for anticipatory bail before the Session Court and the investigating officer had submitted a report to the court stating that his complexity in commission of the offence has not come to light and on the basis of the aforesaid report, his anticipatory bail application was rejected as not maintainable by the Session Court but thereafter he was taken into custody.

8. The applicant is brother of Faizal Warsi and he has been

implicated because Rs. 5 lakhs had been transferred to his bank account from one Shobhit Ranjan. Shobhit Ranjan is not an accused in the present case and the trail has been established by stating that Kamlesh Gupta had transferred Rs. 5 lakhs to the bank account of Shobhit Ranjan, who transferred the amount to the applicant. The applicant's explanation is that the money had been transferred to his bank account because of some business transaction.

9. The learned A.G.A. has opposed the application and he has submitted that a rent agreement has come to light indicating that the premises from where the goods have been recovered, had been taken on rent by the applicant.

10. The learned counsel for the victim has also opposed the anticipatory bail application and he has disowned the statement of the victim recorded by the investigating officer and he has submitted that the investigation officer has recorded the statement under Section 161Cr.P.C out of his own free will and this statement had never been given by the victim. He has further submitted that the applicant is influencing the investigation and under his influence, the investigating officers have been changed twice. These allegations are refuted by the learned A.G.A.

11. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the applicant has not been named as an accused in the F.I.R and he has not been named even in the statement of the victim, who did not mention the applicant's name; as per the statement of the victim, he had tried to secure a tender by payment of bribe; that the applicant's brother has also been made an accused and opposing his anticipatory bail application before the Session court, the investigating officer had given a categorical statement

that his complexity in commission of the offence had not come to light till date and because of this report, the court had rejected the anticipatory bail as not maintainable and soon thereafter he was arrested and he has been granted bail by this court; that the applicant has been implicated in the present case because Rs. 5 lakhs have been transferred to his bank account by a person who is not an accused in this case 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.

12. In view of the above, the anticipatory bail application of the applicant is **allowed**. In the event of arrest/ appearance of applicant- **Syed Mehmood Wasiq Warsi** 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;

(Subhash Vidyarthi, J.)

Order Date :- 20.12.2023/Preeti.