

Court No. - 78

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10111 of 2022

Applicant :- Rohit Kumar Yadav@ Rohit Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Satyanand Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

Heard Sri Satyanand Tripathi, learned counsel for the applicant and Smt. Ladli Pandey, learned A.G.A. for the State as well as perused the record.

The present anticipatory bail application has been filed on behalf of the applicant in F.I.R./Case Crime No. 564 of 2020, under Sections 420, 406, 506 IPC, Police Station Phase-III, District Gautam Buddh Nagar, with a prayer to enlarge him on anticipatory bail.

As per prosecution story the applicant who happens to be the franchisee holder of M/s. Westland Pvt. Ltd. by paying an amount of Rs. 23,54,000/- for providing various goods but later on the Manager and Director of the said company are stated to have stopped sending the goods and also did not return the amount of the informant.

Learned counsel for the applicant has stated that he was accountant in the said company and he has also filed the appointment letter which is annexed as annexure no. 3 to the affidavit indicating that he was merely an employee of the said company and he had worked for a period of about three months and thereafter lock-down was clamped due to Covid-19 pandemic. Learned counsel for the applicant has further stated that applicant is not a beneficiary being an employee of the said company and the co-accused person Manish Kumar Dahia who is the Managing Director of the company has already been granted regular bail by the Apex Court. In all 8 cases, including the present one have been instituted against him of which the six cases have been instituted on the same day. The applicant has no other criminal

antecedents and he is not a previous convict. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. The applicant is cooperating in the investigation and, in case, his anticipatory bail application is allowed, he will not misuse the liberty and is ready to cooperate in future also.

On the other hand, learned A.G.A. has vehemently opposed the prayer for grant of anticipatory bail but unable to dispute the submissions raised by the learned counsel for the applicant.

On due consideration to the arguments advanced by the learned counsel for the parties and in view of the law laid down by the Apex Court in the case of "**Sushila Aggarwal Vs. State (NCT of Delhi)-2020 SCC online SC 98**", the applicant is entitled to be granted anticipatory bail in this case.

Without expressing any opinion upon ultimate merits of the case either ways which may be adversely affect the trial of the case, the anticipatory bail application of the applicant is **allowed**.

In the event of arrest of the applicant, **Rohit Kumar Yadav@ Rohit Yadav** involved in the aforesaid case crime number, shall be released on bail on furnishing a personal bond with two sureties each in the like amount to the satisfaction of the Presiding Officer/Court Concerned, with the conditions that:-

1. that the applicant shall make himself available for interrogation by a police officer as and when required;
2. 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;

3. that the applicant shall not leave India without previous permission of the court;
4. that the applicant shall not tamper with the evidence during the trial;
5. that the applicant shall not pressurize/intimidate the prosecution witness;
6. that the applicant shall appear before the trial court on each date fixed unless personal presence is exempted;

In case of breach of any of the above conditions, the court below shall have the liberty to cancel the bail granted to the applicant.

It is made clear that observations made in granting anticipatory bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

Order Date :- 31.10.2022

Vikram