

Court No. - 78

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 3716 of 2024

Applicant :- Pramod Kumar Pandey

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Mithilesh Kumar Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh,J.

1-Heard learned counsel for the applicant, learned Additional Government Advocate for the State of U.P. and perused the record.

2-This Criminal Misc. Anticipatory Bail Application has been moved by the applicant before this court seeking Anticipatory Bail in Case Crime No. 64 of 2008, under Sections 420, 467, 468, 471, 120-B I.P.C. and Section 13(1) of Prevention of Corruption Act, Police Station Pipri, District Kaushambi.

3-The main substratum of argument of learned counsel for the applicant is that the applicant is a Lekhpal and has been falsely implicated in this case. The first information report was lodged on 01.04.2008 and the allegation in the F.I.R. is with regard to non-payment of sufficient stamp duty during the execution of sale-deed. The said allegation is not sustainable in the light of order dated 14.12.2010 passed by Commissioner, Allahabad Division, Allahabad whereby appeal arising out of the India Stamp Act, 1899 has been allowed and the order passed by the District Magistrate has been set aside. It is also submitted that considering the said facts, applicant was granted interim protection during the investigation vide order dated 25.11.2021 in Criminal Misc. Writ Petition No. 11153 of 2021.

4-On the strength of aforesaid facts, learned counsel for the applicant further submits that the allegations levelled against the applicant are false and based on concocted facts. Investigating officer has not

conducted fair investigation. Lastly, it is submitted that he has apprehension of imminent arrest and in case, applicant is granted anticipatory bail, he would not misuse the liberty and would cooperate with the trial.

5-Per contra learned Additional Govt. Advocate for the state of U.P. opposed the prayer for granting anticipatory bail to the applicant by contending that investigating officer, after due investigation, submitted charge sheet in this case on 22.12.2022 on the basis of cogent material against the applicant, on which the learned Magistrate took cognizance on 23.06.2023 and summoned the applicants to face trial. Since the applicant had challenged the F.I.R., therefore, he was very much aware about the criminal proceedings against him but he has not appeared before the trial court, hence, non-bailable warrant has been issued against him on 03.01.2024, 31.01.2024, 27.03.2024, 22.04.2024 and 27.05.2024, hence in the light of recent judgment of the Apex Court in the case of **Serious Fraud Investigation Officer (SFIO) vs. Aditya Sarda**, 2025 SCC OnLine SC 764, the applicant is not entitled to be released on anticipatory bail.

6-Having heard the learned counsel for the parties, I find that it is not in dispute that applicant was having knowledge about the F.I.R. lodged against him and despite issuance of repeated non-bailable warrant since 03.01.2024 he was not appearing before the trial Court.

7-Object of section 438 of the Code of Criminal Procedure, is that a person should not be unnecessarily harassed or humiliated in order to satisfy personal vendetta or grudge of complainant or any other person operating the things directly or from behind the curtains. It is well settled that discretionary power conferred by the legislature on this court can-not be put in a straitjacket formula, but such discretionary power either grant or refusal of anticipatory bail has to be exercised carefully in appropriate cases with circumspection on the basis of the available material after evaluating the facts of

the particular case and considering other relevant factors (nature and gravity of accusation, role attributed to accused, conduct of accused, criminal antecedents, possibility of the applicant to flee from Justice, apprehension of tampering of the witnesses or threat to the complainant, impact of grant of anticipatory bail in investigation, trial or society, etc.) with meticulous precision maintaining balance between the conflicting interest, namely, sanctity of individual liberty and interest of society.

8-In the light of above, looking to the facts and circumstances of this case, submissions of learned counsel for the parties, as well as considering the reasons noted above, this court is of the view that no case for exercising its discretionary power under section 438 Code of Criminal Procedure is made out in favour of applicant.

9-Accordingly this application under section 438 Cr.P.C. is **rejected**.

10-However, it goes without saying that in case the applicant surrenders and applies for bail, his bail application shall be considered and decided expeditiously by the court concerned in accordance with law and keeping in view the guidelines as laid down by the Apex Court in the case of **Satender Kumar Antil vs. Central Bureau of Investigation and Another**, 2021 SCC OnLine SC 922.

11-It is clarified that observations made in this order at this stage is limited for the purpose of determination of this anticipatory bail application and will in no way be construed as an expression on the merits of the case. The concerned Court below shall be absolutely free to arrive at its independent conclusions according to law on the basis of materials / evidences on record.

Order Date :- 30.4.2025

Saurabh