

Court No. - 83

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12954 of 2022

Applicant :- Princess Mahi @ Saher Naqvi

Opposite Party :- State of U.P.

Counsel for Applicant :- Sujan Singh, Anjani Kumar
Raghuvanshi

Counsel for Opposite Party :- G.A., Anil Kumar Pal, Pankaj
Kumar Gupta

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Supplementary affidavit filed by the applicant in person is taken on record.
3. Heard Ms. Princess Mahi @ Saher Naqvi, applicant in person, Sri Pankaj Kumar Gupta, learned counsel for the informant as well as Sri V.K.S. Parmar, learned A.G.A. for the State and perused the records.
4. The present anticipatory bail application has been filed on behalf of the applicant in Case Crime No.930 of 2019, under Sections 420, 467, 468, 471 and 506 I.P.C. at Police Station Colonelganj, District Prayagraj with a prayer to enlarge her on anticipatory bail.

PROSECUTION STORY:

5. The FIR was lodged by Rakesh Kumar, an ex-army-man, with the allegations that the applicant Princess Mahi @ Saher Naqvi had taken Rs.20 lakhs from him in the year 2018 to get his wife admitted to a job in junior high school. She had even introduced the informant to one Rajeev Tripathi at the office of BSA. The applicant is stated to have neither returned the amount nor got the said job to his wife and she kept on dilly

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dallying with him. On 1.1.2019, the applicant is stated to have taken Rs.50 lakhs from the informant in lieu of a sale of a 200 square meters plot in Arazi No.86 of NK Mukherji Marg, Civil Lines, Allahabad. The said amount of Rs.50 lakhs was transferred from the account no.37438827327 of Kchipra Business Solution Pvt. Ltd. of State Bank, Branch Sub-Area Cantt., Prayagraj to the bank account no.6177000100027382 of the applicant through NEFT. It transpired later on that the documents of the said plot are fake and the said forgery has been committed by the applicant in conspiracy with other members of the family. The applicant is stated to have fleeced and fooled the informant on one pretext or other and even threatened him.

6. The FIR was instituted at police station Colonelganj, Prayagraj on 25.10.2019 at about 01:12 a.m.

RIVAL CONTENTIONS:

(Arguments of applicant-in-person)

7. The applicant in-person has pressed the anticipatory bail application on the following grounds:-

(i) that she has been falsely implicated in this case and has nothing to do with the said offence. The allegations with respect to the supply of Rs.20 lakhs are *per se* false as there is nothing on record to suggest that any amount has been withdrawn from any account or transferred to the applicant. The said transaction is in cash, which is false.

(ii) that already final report (charge-sheet) has been submitted and the cognizance by the trial court has been taken. The FIR has been lodged against all the family members just to harass them.

(iii) that after registration of FIR, the applicant and co-accused person Rizwan Ali (father of the applicant) had approached this Court in Criminal Misc. Writ Petition No.25063 of 2019, in which ad-interim protection was granted to them vide order dated 29.1.2020. The said order has been filed as Annexure No.2 to the

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affidavit filed with the bail application.

(iv) that after the submission of final report (charge-sheet), the applicant had challenged it by filing a Criminal Misc. Application U/s 482 Cr.P.C. No.18674 of 2022 and prayed for quashing the entire charge-sheet including the summoning order dated 12.1.2022.

(v) that she is a bona fide person as is evident from the fact that she had filed a Civil Misc. Writ Petition No.11906 of 2022 praying for a direction to issue mandamus to District Magistrate, Prayagraj regarding illegal encroachment on plot no.86/1, measuring area 2.05 hectare and plot no.86/2, measuring area 0.864 hectare. The said writ petition is pending before this Court.

(vi) that transfer of Rs.50 lakhs to her account is admitted, but the said amount has been transferred from the account of the company Kchipra Business Solutions Pvt. Ltd. and the matter is between applicant and the said company, that too is civil in nature and the informant, who is a stranger to the said transaction, has converted it into a criminal case which is not sustainable in the eyes of law.

(vii) that the agreement between the applicant and the informant is a notarized document and is not maintainable in the eyes of law.

(viii) that the applicant is an Advocate registered at Bar Council of Uttar Pradesh since 2019. She has also argued at length that when the applicant had cheated the informant to the tune of Rs.20 lakhs, then there was no occasion for the informant to transfer such a hefty amount to her account, as such the allegations leveled in the FIR are false.

(ix) that the informant is neither the agent nor office bearer nor in the management team of company, as such he has no locus standi to lodge FIR.

(x) that she is facing a case under Section 138 of NI Act at Telangana against the dishonor of cheque with respect to the said transfer of money through RTGS mentioned in the FIR.

(xi) that the present FIR is a counterblast to FIR No.1115 of 2019 lodged at police station Colonelganj by the applicant against Shyam Reddy and others.

(xii) that although the FIR lodged by her has been lodged later on to the present FIR, but the occurrence is of much before the lodging of the present FIR.

(xiii) that the informant has not narrated correct facts in the FIR as the said company had granted a loan of Rs.65 lakhs to the applicant and informant regarding the said plot and the cheque of Rs.50 lakhs has dishonored twice.

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(xix) that the reply to the notice given by the company to her and the informant falsifies the prosecution story. She had even reported the matter to NHRC with respect to the said supply of Rs.65 Lakhs as she was being coerced to act as a conduit in their illegal activities of human trafficking.

(xv) that the Investigating Officer has not taken up the investigation properly and has filed the present final report (charge-sheet) only on the ground of transfer of the said amount of Rs.50 lakhs to the account of the applicant.

(xvi) that she does not have any criminal antecedents to her credit, except the two cases which have been lodged against her regarding the same incident. She has pressed hard that she being an Advocate and lady is being harassed and she may be enlarged on anticipatory bail.

(Arguments for the informant)

8. Learned counsel for the informant has argued that the applicant has admitted the fact that an amount of Rs.50 lakhs has been transferred to her and the very fact has also been mentioned in the order of the Court passed in Criminal Misc. Application U/s 482 Cr.P.C. No.18674 of 2022. Learned counsel has further stated that the applicant had misused the process of the court by taking it's refuge at the drop of the hat as in addition to filing petition U/s 482 Cr.P.C. challenging the final report (charge-sheet), she has even filed a criminal revision before this Court.

9. Learned counsel has further stated that the applicant had even filed a Writ Petition (Criminal) No.486 of 2022 before the Apex Court under Article 32 of the Constitution of India seeking anticipatory bail, which was dismissed on the ground of alternate remedy being available to the applicant, although her anticipatory bail application was already rejected by the Sessions Court, Allahabad. Learned counsel has further stated that the final report (charge-sheet) has already been filed in the court against the applicant on 30.9.2022. Learned counsel has placed on record the information issued by Subhash Chandra

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Diwakar, Lekhpal, Sadar, Prayagraj stating that the the title of the said land Arazi no.86/1, 86/2 is held by municipal board at gata khewat no.1 and the said property is not registered in the name of Princes Mahi @ Saher Naqvi vide report dated 7.9.2022, which has been annexed as Annexure no.8 to the short-counter affidavit dated 6.2.2023.

10. Learned counsel has stated that this is an open and shut case with respect to the applicant and she is not entitled for anticipatory bail. She has even misled the Apex Court in getting an order dated 3.3.2023 in SLP (Crl.) No.5412 of 2023. The factum of final report (charge-sheet) having been submitted against her was concealed by her in the Apex Court. Learned counsel has further stated that the informant is the Director in the company Kchipra Business Solution Pvt. Ltd. which was formed after his superannuation from Indian Army. The hard earned money of the informant has been usurped by the guile of the applicant misusing her licence to practice as an Advocate.

CONCLUSION:

11. It is an admitted fact that the said amount of Rs.50 lakhs has been transferred to the account of the applicant by the informant, who is the Director in company Kchipra Business Solution Pvt. Ltd. The applicant is an Advocate and has argued the matter in person and has also admitted the fact of the said transfer of money to her account, but has stated that she is unable to do so as she is facing a case under Section 138 NI Act at Telangana, as such she is not sure as to whom she has to repay the said amount.

12. After hearing the parties, going through the evidence on record and taking into consideration the fact that a huge amount of Rs.50 lakhs has been transferred to the account of applicant,

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I do not find it a fit case for grant of anticipatory bail to the applicant.

13. The anticipatory bail application is found devoid of merits and is, accordingly, *rejected*.

[Krishan Pahal, J.]

Order Date :- 18.4.2023

Vikas