

Marut Nandan Tripathi Alias Maruti ... vs State Of U.P. And Another on 31 January, 2025

Author: Raj Beer Singh

Bench: Raj Beer Singh

HIGH COURT OF JUDICATURE AT ALLAHABAD

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Reserved

Neutral Citation No. - 2025:AHC:14117

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 7244 of 2024

Applicant :- Marut Nandan Tripathi Alias Maruti Nandan

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

Counsel for Applicant :- Sudarshan Singh

Counsel for Opposite Party :- G.A.,Shashi Shankar Shukla,Vishvajeet Pandey

Hon'ble Raj Beer Singh,J.

1. Heard Sri Amrendra Pratap Singh, learned Senior Advocate, assisted by Sri Sudarshan Singh, learned counsel for the applicant, learned counsel for the opposite party no.2 and learned AGA for the State.

2. The present application has been moved seeking anticipatory bail in Case Crime No.464 of 2022, under Sections - 419, 420, 467, 468, 471, 406, 506, 120B I.P.C., Police Station- Cantt., District- Gorakhpur with the prayer that in the event of arrest, applicant may be released on bail.

3. It is submitted by learned Senior Advocate that applicant is innocent and he has been falsely implicated in this case. Applicant has apprehension of his arrest and there is no credible evidence against him. The first application of anticipatory bail of applicant was rejected by this Court on the ground that applicant has directly approached this Court without exhausting the remedy at the level of Session Court and said application was not decided on merits. The first information report of this case was lodged making false and baseless allegations. In fact, the informant/opposite party no.2 has manipulated documents and made contradictory allegations in first information report and in his statement during investigation. The applicant has left Gorakhpur way back in the year 2015 for higher study and he has passed his 11th and 12th class from Dehradun and thereafter he was preparing for engineering entrance examination at Kota, Rajasthan. Later on, applicant was enrolled for a four years course in Computer Science & Engineering at Lucknow University from the year 2018 to 2022. Applicant has been a meritorious student. Applicant was never associated with any business activity of his father and he has never met informant of this case. He has no role in initiating the alleged deal of sale-purchase of the house. The amount of Rs.1,40,56,000/- mentioned in first information report has not been clarified by informant in his statement under Section 161 Cr.P.C. There is no cogent evidence regarding alleged payment of Rs.1,20,11,000/- in cash. Learned Senior Advocate submitted that only allegation in the entire episode of the case against applicant is that the informant has alleged that he has transferred rupees one lakh in to the account of applicant. The informant has tried to mislead through his averments and concealed material facts. Said amount of rupees one lakh was deposited by informant in account of applicant, while he was studying in Lucknow University, in some other context but in order to implicate the applicant, he has associated the said amount to the alleged sale of the disputed house. The said amount of rupees one lakh was deposited into account of applicant at behest of one Gokul Sahani, in exchange of cash taken from father of applicant. Further, the applicant has transferred back the amount of rupees one lakh to Gokul Sahani. It was stated that informant wants to grab ancestral property of the applicant by showing fictitious payment by hatching a conspiracy. Father of applicant has never made any agreement to sell his house with the opposite party no.2/informant. The only agreement made by father of applicant was with Ram Parvesh Singh @ Bhola Singh on 23.09.2021 against consideration of Rs.500,95,000/-, out of which Rs. 500,00,000/- was to be paid through bank and Rs. 95,000/- in cash. The informant has advanced Rs.8 lakh in account of father of applicant through RTGS on 13.10.2021 on behalf of Ram Parvesh Singh. The informant has filed a case under Section 138 N.I. Act and concealing these facts, he has lodged first information report of this case. It is further submitted that in order to complicate the matter, the informant has manipulated and forged documents in opening of bank account in HDFC bank and in that regard an application was made under Section 156(3) Cr.P.C. for registration of first information report. The Investigating Officer has not conducted investigation in a free and fair manner and charge-sheet was submitted in a routine manner without proper investigation.

4. It is further submitted that earlier applicant and his father have approached this Court by filing Criminal Writ Petition No.9326 of 2022 and this Court has observed that matter relates to property dispute and matter was referred for mediation. The informant/opposite party no.2 deliberately got the mediation proceedings failed. After submission of charge-sheet, said writ petition was dismissed as infructuous. The applicant and his father have approached Hon'ble Apex Court by filing S.L.P. No.10474 of 2023, wherein by order dated 28.08.2023 Hon'ble Apex Court was pleased to grant

liberty to the applicant to file discharge application. Consequently, applicant has filed discharge application. Informant has lodged one more first information report under Section 506 IPC vide Crime No. 432/2023 on 04.06.2023 but the said incident was found false and after investigation closure report was submitted in the Court.

5. It is further submitted that on similar grounds, anticipatory bail application of co-accused Ram Parvesh Singh and Chandra Mohan Tripathi has already been allowed by this Court, the copies of which are available on record. Applicant has no criminal history. Charge-sheet has already been submitted against applicant and thus applicant is no more required for investigation. Referring to facts of the matter, it was submitted that a case for anticipatory bail is made out and that in case applicant is granted anticipatory bail, he will not misuse the liberty of anticipatory bail and would cooperate during trial.

6. Learned AGA and learned counsel for the opposite party no.2 have opposed anticipatory bail application and submitted that this application for anticipatory bail has been filed by concealing material facts. The application of the accused persons for quashing of proceedings have already been rejected by this court. The applicant along with his father was involved in the incident. The father of applicant has entered into an agreement with informant for selling his residential property against consideration of Rs. 1,50,00,000/- and a total amount of Rs. 1,40,56,000/- has been paid by the informant to the accused persons including applicant. It was stated that substantial part of payment has been made in favour of father of applicant as well as in favour of applicant. An amount of rupees one lakh was transferred in to his account. The argument that said amount was transferred in some other context is wholly false. Further, there is evidence that applicant and co-accused have opened a fictitious bank account in the name of co-accused Atul Tripathi by using forged documents and an amount of Rs five lakhs was deposited in said account. The applicant was actively involved in cheating and forgery. The alleged agreement dated 30.09.2020 was entered by the co-accused Atul Kumar Tripathi with Chandra Mohan Tripathi with malafide intention in order to cheat the informant. Neither the sale deed of the property was executed in favour of informant nor his amount was returned back and that the informant was cheated in the tune of Rs.1,40,56,000/-.. The anticipatory bail application of co-accused Atul Tripathi has already been rejected by this Court.

7. I have considered the rival submissions and perused the record.

8. It may be stated that in case of *Siddharam Satlingappa Mhetre v. State of Maharashtra*, (2011) 1 SCC 694, it has been held by Hon'ble Supreme Court that while deciding anticipatory bail, Court must consider nature and gravity of accusation, antecedent of accused, possibility of accused to flee from justice and that Court must evaluate entire available material against the accused carefully and that the exact role of the accused has also to be taken into consideration.

9. In the instant matter it appears from record that main accused is co-accused Atul Kumar Tripathi, who has offered his property for sale to the informant and executed agreement of sale in favour of the informant for selling his residential property against consideration of Rs. 1,50,00,000/- and in pursuance to the same a total amount of Rs. 1,40,56,000/- was paid by the informant but neither sale deed was executed nor the amount of informant was returned back. It has been shown that

substantial part of consideration amount was transferred to the co-accused Atul Kumar Tripathi. As per prosecution, an amount of rupees one lakh was transferred to the account. Applicant is son of co-accused Atul Tripathi. Similarly, some amount was transferred into account of co-accused Chandra Mohan Tripathi, Ram Pravesh Singh, Murari alias Murali and Balveer Kumar alias Ballu at the instance of of the co-accused Atul Kumar Tripathi. Some of the co-accused persons have already been granted anticipatory bail, however, the application of main accused Atul Tripathi for anticipatory has been rejected. The role of applicant is on different footing from that co-accused Atul Tripathi. Investigation of case is complete and charge-sheet has already been submitted in Court. Applicant has no criminal antecedent.

10. Considering submissions of learned counsel for the parties, nature of accusation, role of applicant and all attending facts of the matter, without expressing any opinion on merits, a case for anticipatory bail is made out.

11. The anticipatory bail application is allowed.

12. In the event of arrest of applicant Marut Nandan Tripathi Alias Maruti Nandan in the aforesaid case crime, he shall be released on anticipatory bail subject to furnishing a personal bond of Rs.50,000/- with two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall not tamper with evidence and that he would appear before the trial Court on the date fixed unless exempted by the Court concerned;

(ii) 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/her/them from disclosing such facts to the Court or to any police officer;

(iii) The applicant would co-operate during trial and would not misuse the liberty of bail.

13. In default of any of the conditions, the Investigating Officer/prosecution shall be at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicant.

Order Date :- 31.1.2025 'SP'/-