

Shivam Rajpoot vs State Of U.P. on 5 October, 2023

Author: Shekhar Kumar Yadav

Bench: Shekhar Kumar Yadav

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2023:AHC:191304

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 10514 of 2023

Applicant :- Shivam Rajpoot

Opposite Party :- State of U.P.

Counsel for Applicant :- Nitin Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav, J.

1. Heard Sri Nitin Kumar, learned counsel for applicant and learned A.G.A. as well as perused the material available on record.

2. The present application for anticipatory bail has been filed by the applicant for protection in regard to Complaint Case No.0353 of 2023, under Sections 420, 467, 406 I.P.C. and Section 66-C, 66-D of I.T. Act, P.S.- Kotwali Farrukhabad, District- Farrukhabad.

3. In short the prosecution story is that on 14.08.2023 police on routine checking in Thandi Sarak, Farrukhabad, on the information received by Mukhavir Khas arrested five persons and upon search, Cheque Book, Passport and A.T.M. Card were recovered from their possession. It is alleged that the arrested persons are involved in cyber crime working through Just Dial App. It provides the facility

of inter-district and inter-state transportation for loading and transportation of goods on which any customer logs in to the Just Dial app for transportation of his goods.

4. Learned counsel for the applicant submits that the applicant has been falsely implicated in the present case, in fact, no such incident has taken place. The name of the applicant came into light in the confessions statement of the arrested persons. The applicant has never committed any offence as alleged in the impugned FIR. Nothing has been recovered from the possession of the applicant. The applicant is an employee in dealing medicines and doing a work of medicine distribution (MR) in a micro lab company. There is no eyewitness to the said incident. Learned counsel for the applicant further submits that applicant has apprehension of imminent arrest and in case, applicant is released on anticipatory bail, he will not misuse the liberty and would co-operate with the trial.

5. Learned A.G.A. vehemently opposed the prayer for anticipatory bail of the applicant and has submitted that the applicant along with other accused, has committed organized crime and earned money by impersonating Just Dial mobile App and through cyber fraud. The applicant is also an accomplice in this cyber fraud and has fled from the spot. The crime committed by the applicant is of serious nature and keeping in view the seriousness of the allegations made against the applicant, applicant is not entitled to grant of anticipatory bail. The apprehension of the applicant is not founded on any material on record. Only on the basis of imaginary fear, anticipatory bail cannot be granted.

6. Nowadays, cyber crime is spread all over the country. It is a matter of Cyber Fraud and the applicant with other co-accused persons has committed organized crime and earned money by impersonating Just Dial mobile App and through cyber fraud. The accused persons have also committed such type of offence in different districts.

7. From perusal of record, prima facie offence is made out against the applicant.

8. In the light of above, looking to the facts and circumstances of this case, submissions of learned counsel for the parties as mentioned above, taking into consideration the role assigned to the applicant as per prosecution case, gravity and nature of accusation, this Court is of the view that no case for exercising its discretionary power under Section 438 Cr.P.C. is made out in favour of applicant.

9. Accordingly, this application under Section 438 Cr.P.C. is rejected.

Order Date :- 5.10.2023 Krishna*