

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 1488 of 2023

Applicant :- Tasswar And Another

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

Counsel for Applicant :- Pavan Kumar

Counsel for Opposite Party :- G.A., Umair Mahmood

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard learned counsel for applicants as well as Sri Shakeel Ahmad, learned A.G.A. for State and also perused the material available on record. Learned counsel for the informant is not present.
3. The present application for anticipatory bail has been filed for protection in regard to FIR/Case Crime No. 280 of 2012, under Sections 452, 307, 323, 324 I.P.C., P.S.- Kiratpur, District- Bijnor.
4. As per the allegations in the FIR instituted by Smt. Saieda W/o Imran, at police station on 8.8.2012, the applicant alongwith two other co-accused persons had fired at her husband on 4.1.2012 at 12.30 pm and causing grievous injuries to three persons. There was an altercation between the parties on 3.1.2001 also.
5. Learned counsel for the applicants has stated that the applicants have been falsely implicated in the present case. Learned counsel has next stated that the FIR is delayed by about four days and there is no explanation of the said delay caused. It is further stated that the police, after thorough investigation, has filed a closure report in the said matter but on the protest petition being filed by the informant, the applicants were summoned by the Magistrate vide order dated 28.9.2015. The applicants had challenged the said summoning order by filing a petition u/s 482 Cr.P.C., which was dismissed by this Court. It is further stated that the applicants had subsequently filed the present anticipatory bail application and have not misused it and they are not the previous convict. It is further stated that the injuries have been found to be simple in nature. It is stated that only one person i.e. Shahzad is stated to have sustained gunshot injuries. The other co-accused persons

have not sustained any firearm injury. Learned counsel has placed reliance on the supplementary report of the injured Shahzad, which indicates that there is no firearm injuries sustained by the injured person, as no traumatic bony lesion was observed. It is next stated that in case, the anticipatory bail application of the applicants is allowed, he will not misuse the liberty and shall cooperate with trial.

6. Per contra, learned A.G.A. has vehemently opposed the prayer for anticipatory bail on the ground that no traumatic bony lesion was seen but it is mentioned therein that few pinpoint metallic density radio opaque shadows were seen. Learned A.G.A. has stated that it indicates firearm injuries sustained by the injured person.

7. Considering the rival submissions advanced by the learned counsel for the parties that the matter is of the year 2012 and the cognizance was taken against the applicants and the summons were issued to them on 28.9.2015 itself, and considering the fact that the applicants have failed in the petition u/s 482 Cr.P.C. and there are gunshot injuries sustained by Shahzad, I do not find it a fit case for grant of anticipatory bail to the applicants as the arguments advanced by learned counsel for the applicants pertain to regular bail application and cannot be agitated at this stage u/s 438 Cr.P.C.

8. In view of the above, the present anticipatory bail application of the applicants **Tasswar and Imram** is found devoid of merits and is, accordingly, **rejected**.

9. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of anticipatory bail application and the said observations shall have no bearing on the merits of the case.

(Justice Krishan Pahal)

Order Date :- 16.11.2023
Shalini