

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10266 of 2023

Applicant :- Jeetan Singh And 4 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Pankaj Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. Heard learned counsel for the applicants, learned AGA and perused the material available on record.

2. This application for anticipatory bail has been filed by applicants- **1. Jeetan Singh, 2. Bheem @ Shailendra Singh, 3. Chhotu @ Surendra Singh, 4. Sachin Singh, 5. Upendra** in connection with Case Crime No. 158 of 2020, under sections 147, 148, 149, 323, 504, 324, 307 IPC, P.S. Pipraich, District-Gorakhpur.

3. The named accused persons made an assault upon the injured persons namely Om Prakash, Hari Singh and Vakeel Singh and they sustained grievous injuries. FIR was lodged and after investigation now the charge sheet has been submitted.

4. It has been submitted by the learned counsel for the applicants that applicants are innocent and they have apprehension of arrest in the above-mentioned case, whereas there is no credible evidence against them. Allegations levelled against the applicants are false. After investigation charge sheet has been submitted in the matter. It is further submitted that during course of investigation anticipatory bail was granted to the present applicants by the Sessions Court itself but after submission of charge sheet the anticipatory bail application moved before the Sessions Court was rejected. It is further submitted that the whole prosecution story is highly suspicious and improbable. The injury is said to be caused to the injured persons on 18.4.2020 whereas the medical report was prepared on 18.6.2020 and surprisingly C.T. scan report of the injured was prepared on 18.4.2020 itself without any referral letter. It is further submitted that the CT scan report was submitted before the I.O. on 18.6.2020 two months after the incident. It is further submitted that in this way the whole prosecution story and the

nature of injuries are not out of the cloud of the suspicion. The applicants have been cooperative with the investigation. In case applicants are granted anticipatory bail, they will not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. has opposed the prayer for anticipatory bail. It has been vehemently submitted that injured Om Prakash has sustained grievous injuries in this matter and fracture as well.

6. In the facts and circumstances and also keeping in mind that during investigation anticipatory bail was granted to the applicants was never misused by them. They are having no criminal history and there is a cross case also in this matter and the liberty of anticipatory bail granted during course of investigation to the applicants was never misused. After submission of charge sheet, no custodial interrogation is required in this matter.

7. Although the charge sheet has been submitted in this matter but in ***Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1***, the Hon'ble Apex Court has settled the law on the subject finally by holding that the anticipatory bail need not be of limited duration invariably. In appropriate case, it can continue upto conclusion of trial.

8. It has been further held therein that anticipatory bail granted can, depending on the conduct and behavior of the accused, continue after filing of the charge sheet till end of trial.

9. It has been further held by the Hon'ble Apex Court that while considering an application for grant of anticipatory bail, the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence including intimidating witnesses, likelihood of fleeing justice, such as leaving the country, etc. It has further been held that Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion.

10. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicants and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, in my view, it is a fit case for anticipatory bail to the applicants till conclusion of trial in the

matter.

11. The anticipatory bail application is **allowed** accordingly.

12. In the event of arrest of the applicants in the aforesaid case crime, they shall be released on anticipatory bail on their 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 applicants 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 from disclosing such facts to the Court or to any police officer or tamper with the evidence
- ii. The applicants shall not pressurize/ intimidate the prosecution witness.
- iii. The applicants shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are suspected.
- iv. The applicants shall not leave India without prior permission of the Court and if they have passport, the same shall be deposited by them before the S.S.P./S.P. concerned.

13. In case of breach of any of the above conditions, the Investigating Officer shall be at liberty to file appropriate application for cancellation of anticipatory bail of the applicants in accordance with law.

Order Date :- 19.10.2023

Fhd