

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12571 of 2023

Applicant :- Ashwani Kumar @ Sonu And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohd. Arshad

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav,J.

1. Heard learned counsel for the applicants; learned Additional Government Advocate for the State and perused the records.

2. This anticipatory bail application (under section 438 Cr.P.C.) has been moved seeking bail in Case Crime No.750 of 2020, under Sections 3/7 Essential Commodities Act, Police Station Banna Devi, District Aligarh.

3. Learned counsel for the applicants submits that the applicants have been falsely implicated in the present case due to ulterior motive. The applicants have never committed any offence as alleged in the impugned FIR. It is further submitted that applicant no.2 is licence holder of fair price shop and applicant no.2 is his son, who has operating the shop at the time of search. As per FIR, allegations have been made against the applicants that 51.86 quintal wheat and 29.34 quintal rice have been found shortage in the stock. Prima facie no offence is made out against the applicants. The applicants are having no previous criminal history as has been mentioned in paragraph 16 of the affidavit.

4. Learned counsel for the applicants further submits that applicants have apprehension of imminent arrest and in case, applicants are released on anticipatory bail, they will not misuse the liberty and would co-operate with the trial.

5. Learned A.G.A. has vehemently opposed the prayer for anticipatory bail of the applicants and submitted that several complaints have been made against the applicants about the irregularities in distributing the essential commodities, thereafter the inspection team has searched the fair price shop and found many irregularities for providing rations of the villagers. Investigation was completed and charge sheet has been submitted

against the applicants on the basis of credible evidence. Prima-facie, the case is made out against them. The allegations are very serious and keeping in view the seriousness of the allegations made against the applicants, applicants are not entitled to grant of anticipatory bail. The apprehension of the applicants is not founded on any material on record. Only on the basis of imaginary fear, anticipatory bail cannot be granted. Learned AGA further submitted that NBW and Section 82/83 Cr.P.C. have been issued against the applicants.

6. 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 applicants 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 the applicants.

7. Accordingly, this application under Section 438 Cr.P.C. is **dismissed**.

Order Date :- 17.11.2023

I.A.Siddiqui