

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 9832 of 2023

Applicant :- Kamal Singh And 5 Others

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

Counsel for Applicant :- Rabindra Bahadur Singh

Counsel for Opposite Party :- G.A., Surendra Kumar Tripathi

Hon'ble Nalin Kumar Srivastava, J.

1. Heard learned counsel for the applicants, learned counsel for the informant, learned A.G.A. for the State and perused the record.

2. This application has been moved on behalf of the applicants **1. Kamal Singh, 2. Rustam, 3. Badan Singh, 4. Suraj, 5. Ramendra and 6. Bahadur Singh** seeking anticipatory bail in Case Crime No.317 of 2022, under Sections 147, 148, 149, 308, 323, 324, 325, 452, 504, 506 IPC, Police Station- Fatehpur Seeekari, District- Agra.

3. An assault was made upon the wife, aunt and brother of the informant by all the named accused persons including the present applicants, they sustained grievous injuries. FIR was lodged on 1.12.2022 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 their arrest in the above-mentioned case, whereas there is no credible evidence against them. Allegations levelled against the applicants are false. The investigation of the case has been completed and charge-sheet has been filed. It is further submitted that only simple injuries have been found on the body of the injured persons of this case. It is further submitted that only general role of assault has been assigned to all the accused applicants in this case and no specific role has been assigned to any of the applicant. It is further submitted that there is a cross case of this matter and in the cross case the persons from the accused side have also sustained injuries and charge sheet in that matter also has been submitted. It is further submitted that the applicants have been cooperative during course of investigation. It is also submitted that earlier FIR was lodged under Section 307 I.P.C. but during course of investigation

the said offence was deleted and Section 308 I.P.C. was added in place of Section 307 I.P.C. It has been submitted that in case applicants are granted anticipatory bail, they shall not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. and learned counsel for the informant opposed the prayer for anticipatory bail. It has been submitted that according to the supplementary medical report of injured Rama, he has sustained grievous and serious injuries which are dangerous to life. It is further submitted that there are three injured persons in this case, who had sustained many injuries and fracture as well. It is further submitted that all the accused persons had made assault together upon the family members of the informant after forming an unlawful assembly, with deadly weapons. Ample and sufficient evidence has been collected against them during course of investigation. Witnesses have supported the prosecution version as well and as such they are not entitled for anticipatory bail.

6. 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 controversy finally by holding the anticipatory bail need not be of limited duration invariably. In appropriate case, it can continue upto conclusion of trial.

7. 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.

8. 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.

9. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicants, nature of injuries caused to the injured persons and all attending facts and circumstances of the case, without expressing any opinion of the

merits of the case, I deem it not a fit case to grant anticipatory bail to the present applicants. Prayer made in the application is refused.
10. The anticipatory bail application is **rejected**.

Order Date :- 12.10.2023

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