

Court No. - 73

**Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10291 of 2023**

Applicant :- Rakam Singh And 7 Others

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

Counsel for Applicant :- Adesh Kumar

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- **Rakam Singh, Cheni @ Kartik Bhati, Kapil, Arun Kumar, Bijendra Singh, Goldi @ Gaurav Bhati, Mangal @ Saurabh Bhati & Sumit @ Sunit Kumar** in connection with Case Crime No. 68 of 2018, under sections 147, 148, 149, 307, 332, 353, 225, 504, 336, 427 IPC, Police Station Falawda, District Meerut.

3. It is alleged in the F.I.R. that the police party had made a raid in the house of one accused, Sonu to arrest him but the villagers intervened and made an assault upon the police party with intention to kill and the government vehicle was also damaged. F.I.R. was lodged on 18.03.2018 by S.O. and after investigation, now charge sheet has been submitted in this matter.

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. In case applicants are granted anticipatory bail, they shall not misuse the liberty of bail and would obey all conditions of bail.

5. It is further submitted that the accused applicants although named in the F.I.R. but the prosecution story is not plausible and natural on this point as to how they were identified by the police in the group of 50-60 persons. It is next submitted that it is a case of no injury and no person has sustained any injury in this case. It is further submitted that the applicants have been cooperative during

the course of investigation. It is also submitted that the criminal history of applicant nos.1, 3, 4 & 5 has been explained by way of supplementary affidavit. It is further submitted that the applicants are ready and willing to cooperate with the trial and as such, they are entitled for anticipatory bail.

6. Learned A.G.A. has opposed the prayer for anticipatory bail and it has been argued that the police party has been assaulted by the present applicants and other co-accused persons of this case. The offence is very serious and charge sheet has been submitted against the present applicants and as such, they are not entitled for anticipatory bail.

7. In this present case, after submission of charge sheet, now no custodial interrogation is required from the present applicants. It also appears from the material placed on record that during investigation, the applicants have been cooperative with the I.O. of the case during the course of investigation.

8. 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.

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.

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 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.

10. The anticipatory bail application is **allowed**.

11. 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.

12. 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 :- 24.11.2023

Shivangi