

**Court No. - 73**

**Case :-** CRIMINAL MISC ANTICIPATORY BAIL  
APPLICATION U/S 438 CR.P.C. No. - 10306 of 2023

**Applicant :-** Murali Yadav And 4 Others

**Opposite Party :-** State Of U.P. And 2 Others

**Counsel for Applicant :-** Vidya Dhar Yadav

**Counsel for Opposite Party :-** G.A.,Raj Kumar Prajapati

**Hon'ble Nalin Kumar Srivastava,J.**

1. Present Anticipatory Bail Application has been filed with the prayer to grant anticipatory bail to the applicants - **Murali Yadav, Phool Chand Yadav, Pope Yadav @ Kanhaiya Lal, Gamu Yadav @ Ganesh Prasad Yadav** and **Akash Yadav** in Case Crime No.0086 of 2023, under Sections 147, 148, 149, 308, 452, 323, 427, 504, 506 I.P.C., Police Station - Chilh, District - Mirzapur.

2. Heard learned counsel for the applicants, learned A.G.A. for the State as well as learned counsel for the opposite party no.3 and perused the material available on record.

3. It is submitted by the learned counsel for the applicants that the applicants are innocent and have no concern with the present matter. They have been falsely implicated in this matter. Allegations levelled against the applicants are false. Applicants' case is squarely covered under Section 438 Cr.P.C. It is further submitted that if the applicants are enlarged on bail, they will not misuse the liberty. The applicants have apprehension of their arrest any time.

4. Learned A.G.A. opposed the prayer for anticipatory bail and submitted that on the basis of instructions received, the police is not making any attempt to arrest the applicants, as the alleged offences are punishable with the imprisonment for a maximum period of seven years.

5. I have considered the rival submissions made by the learned counsel for the parties and have gone through the entire record.

6. In this matter, as is evident from the record, offences levelled against the applicants are of Sections 147, 148, 149, 308, 452, 323, 427, 504, 506 I.P.C., which are punishable with the imprisonment

upto seven years. Specific provisions under Section 41-A CrPC have been provided giving protection to the accused person from arrest for the offences punishable upto seven years' imprisonment and in **Arnesh Kumar vs. State of Bihar and another, (2014) 8 SCC 273**, the Hon'ble Apex Court has also emphasized upon the power of police to arrest without warrant and it has been clarified that a balance between individual liberty and societal order should be made while exercising power of arrest. It has also been directed that where the offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years, whether with or without fine, the police officer shall not arrest the accused unnecessarily and Magistrate shall not authorize detention casually and mechanically. Even in Section 438 CrPC it has been promulgated that accused must have reason to believe that he may be arrested in cognizable offence by the police to get protection of anticipatory bail.

7. In the light of aforesaid provisions, the applicants have no reason to believe that they may be arrested. Hence, having regard to the entire facts and circumstances of the case, no indulgence is warranted in the matter. Prayer made in the application is refused.

8. The present anticipatory bail application stands **disposed of** accordingly.

**Order Date :- 31.10.2023**

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