

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10677 of 2023

Applicant :- Mohammad Taiyab And 2 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Pankaj Dwivedi

Counsel for Opposite Party :- G.A.,Chandra Bhushan
Mishra,Prem Shanker Mishra

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Pankaj Dwivedi, learned counsel for the applicants, Sri Prem Shanker Mishra, learned counsel for the informant and Sri Sunil Singh, learned A.G.A. for the State as well as perused the material placed on record.
3. The present application for anticipatory bail has been filed on behalf of applicants- Mohammad Taiyab, Mohammad Tahir and Mohammad Naushad for anticipatory bail in Case Crime No.15 of 2022, under Sections 147, 148, 354(B), 323, 452, 427, 504 and 506 IPC, Police Station Handia, District Allahabad, during the pendency of trial.
4. As per prosecution story, the applicants alongwith other co-accused persons are stated to have barged into the house of the informant and had outraged her modesty and in addition to it, had robbed her valuables on 25.07.2021 at about 6:00 a.m.
5. Learned counsel for the applicants has submitted that the applicants have been falsely implicated in the present case. After investigation, the allegations under Sections 392 and 286 I.P.C. were found false, as such the said sections stand deleted. The FIR is delayed by about six months and there is no explanation of the said delay caused. Learned counsel has further stated that the co-accused persons have been enlarged on bail and as such, the case of the applicants is at par with the co-accused persons. The criminal history of the applicants stands explained as in the complaint case, they have been enlarged on bail and they had no knowledge of Case Crime No.89 of 2022 pending against them. Several other submissions have been made on behalf of the applicants to demonstrate the falsity of the allegations made against them. The circumstances which, as per counsel, led to the false implication of the applicants have

also been touched upon at length.

6. Per contra, learned counsel for the informant has vehemently opposed the anticipatory bail application on the ground that the affidavit, annexed with the present anticipatory bail application, is false as in paragraph 28, it has been stated that they have no criminal antecedents rather the applicants have criminal history of two cases. Learned counsel for the informant has further stated that the statement of the victim recorded under Section 164 Cr.P.C. corroborates the prosecution story and the allegations in the FIR have been reiterated. The FIR has been lodged after moving an application under Section 156(3) Cr.P.C., as such the delay may not be considered. Learned counsel has further stated that the bail application of the co-accused persons has also been taken by concealing the said fact of criminal antecedents, although he could not produce any evidence regarding having moved any bail cancellation application of the co-accused persons.

7. Learned A.G.A. has also opposed the anticipatory bail application on account of criminal antecedents of the applicants. Learned A.G.A. has further stated that the applicants have not annexed any order regarding Case Crime No.89 of 2022, under Sections 143, 153A, 188 and 293 I.P.C., P.S. Handia, District Prayagraj, as such the applicants are not entitled for anticipatory bail.

8. In rebuttal, learned counsel for the applicants has stated that he has annexed the said FIR of Case Crime No.89 of 2022 and he had no knowledge of the said case as it has been instituted on the basis of a report on twitter handle.

9. After hearing learned counsel for the parties and taking into consideration the rival submissions and the fact that the criminal history of one case has not been properly explained, I do not find it a fit case for grant of anticipatory bail to the applicant. The present anticipatory bail application is hereby found devoid of merits and is accordingly **rejected**.

10. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of anticipatory bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 9.11.2023

Ravi Kant

(Krishan Pahal, J.)