

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10516 of 2023

Applicant :- Yunus

Opposite Party :- State of U.P.

Counsel for Applicant :- M J Akhtar, Sr. Advocate

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav, J.

1. Supplementary affidavit filed on behalf of the applicant today in the Court, the same is taken on record.
2. Sri S.K. Singh, Advocate has filed his Vakalatnama on behalf of the complainant/opposite party no.2 today in the Court, the same is taken on record.
3. Heard Sri M.J. Akhtar, learned Senior Counsel appearing for the applicant, Sri S.K. Singh, learned counsel for the opposite party no.2 and learned A.G.A. as well as perused the material available on record.
4. The present application for anticipatory bail has been filed by the applicant for protection in regard to Case Crime No.535 of 2020, under Sections 147, 148, 323, 307, 352, 325 I.P.C., P.S.- Jevan, District- Gautam Buddh Nagar.
5. In short, the relevant facts of the case are that Badi's brother Farman was going to the town to collect his loan money on Farman's motorcycle bearing No. HR-87C-1970 and when reached near a mosque in the town of Maunar, where Yunus, Yusuf Anees Nafees, son of Saeed and three persons of unknown address, hockey sticks, sharp weapons and Nafees and Anees were armed with pistols and Nafees and Anees were already ambushed. The accused persons opened fire with the intention of killing him, due to which his brother fell along with his motorcycle. All accused persons attacked him with sharp weapons like hockey sticks where brother of the informant got serious injury on his head, both hands and legs.
6. Learned counsel for the applicant submitted that the

applicant is innocent and he has been falsely implicated in the present case. He submitted that role of the applicant is similar to the co-accused Nafees, who has been granted regular bail by the co-ordinate Bench of this Court passed in Criminal Misc. Bail Application No.27170 of 2021, vide order dated 29.10.2021 and other co-accused Noor Mohammad and Sher Mohammad have also been granted regular bail by the co-ordinate Bench of this Court passed in Criminal Misc. Bail Application No.19673 of 2021, vide order dated 28.7.2021. The applicant is having no criminal history as has been mentioned in paragraph 23 of the affidavit. Learned counsel for the applicant further submitted that applicant has apprehension of imminent arrest and in case, applicant is released on anticipatory bail, he will not misuse the liberty and would co-operate with the trial.

7. Sri S.K. Singh, learned counsel for the opposite party no.2 as well as learned A.G.A. have vehemently opposed the prayer for anticipatory bail of the applicant. Learned counsel for the informant has submitted that the applicant along with other co-accused had tried to cause serious injuries and kill the brother of the informant by assaulting him with deadly weapons, the applicant is involvement in a serious crime, therefore, keeping in view the seriousness of the allegations made against the applicant, the applicant is not entitled to grant of anticipatory bail. The apprehension of the applicant is not founded on any material on record. Only on the basis of imaginary fear, anticipatory bail cannot be granted.

8. After having very carefully examined, the submissions made by the learned counsel for the applicant and perused the material available on record, there is no justification for granting anticipatory bail to the applicant. Accordingly, the prayer for grant of anticipatory bail is hereby refused.

9. Accordingly, this application under Section 438 Cr.P.C. is dismissed. Applicant is advised to move regular bail application before the appropriate forum and if such application is given, the court below shall disposed of the bail application of the applicant, expeditiously, considering regular bail of co-accused, namely, Nafees, Noor Mohammad and Sher Mohammad who have been granted regular bail by the co-ordinate Bench of this Court, in accordance with law.

Order Date :- 17.11.2023 // Krishna*