

**Court No. - 71**

**Case :-** CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 10672 of 2023

**Applicant :-** Mukesh Kumar

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

**Counsel for Applicant :-** Shiv Sharan Tripathi

**Counsel for Opposite Party :-** G.A.

**Hon'ble Shekhar Kumar Yadav,J.**

1. Heard Mr. Shiv Sharan Tripathi, learned counsel for the applicant and learned Additional Government Advocate for the State.

2. This anticipatory bail application (under section 438 Cr.P.C.) has been moved seeking bail in Case Crime No.220 of 2023, under Sections 420, 406, 506 IPC, Police Station Mahuakhera, District Aligarh.

3. At the outset, learned AGA has submitted that all the alleged offences are punishable with imprisonment of maximum period of seven years, therefore, there is no occasion of arrest of the applicant.

4. In view of the dictum of Hon'ble Apex Court in re: ***Arnesh Kumar vs. State of Bihar reported in (2014) 8 SCC 273*** and in the case in re: ***Satender Kumar Antil vs. CBI and others in Special Leave to Appeal (Criminal) No.5191 of 2021***, in the cases where the punishment prescribed is upto seven years, usually no arrest should be made unless the accused person does not co-operate with the investigation.

5. If the sections under which the F.I.R. has been lodged are having punishment upto seven years, it is needless to say that the Investigating Agency/ Officer should follow the dictum of Hon'ble Apex Court in re: ***Arnesh Kumar (supra)*** and ***Satender Kumar Antil (supra)*** as well as the provisions of Section 41-A Cr.P.C. If the accused applicant co-operate with the investigation in view of the notice issued under Section 41-A Cr.P.C., the arrest in such cases is not required.

6. In view of the aforesaid settled proposition of law, I do not find any good ground to grant anticipatory bail to the present applicant.

7. Considering the facts and circumstances of the case as well as submissions advanced by learned counsel for the parties, the present anticipatory bail application is disposed giving liberty to the present applicant to appear before the Investigating Agency/ Officer to co-operate with the investigation and if the present applicant properly co-operates with the investigation, the Investigating Agency/ Officer shall abide by the directions of Hon'ble Apex Court issued in re: ***Arnesh Kumar (supra)*** and ***Satender Kumar Antil (supra)*** as the directions of Apex Court is law of land and no one can flout the same and the directions shall be abide in its letter and spirit.

8. With the aforesaid observations, the present anticipatory bail application stands **disposed of**.

**Order Date :-** 12.10.2023/Ajeet