

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10782 of 2023

Applicant :- Sajid @ Shanu

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

Counsel for Applicant :- Kaushal Kumar Pandey, Anand Ji Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

2. This application has been moved on behalf of the applicant **Sajid @ Shanu** seeking anticipatory bail in Case Crime No. 171 of 2022, under Sections 147, 148, 149, 323, 504, 506, 352, 353, 307, 427 IPC & 7 Criminal Law Amendment Act, Police Station Delhi Gate, District Meerut.

3. It is alleged in the F.I.R. is that an assault was made upon the informant/injured after entering into his house by the named accused persons ten in number and also against one unknown person. He sustained grievous and serious injuries. F.I.R. was lodged on 19.08.2022 and charge sheet has been submitted in this matter.

4. It has been submitted by the learned counsel for the applicant that applicant is innocent and he has apprehension of his arrest in the above-mentioned case, whereas there is no credible evidence against him. Allegations levelled against the applicant are false. The investigation of the case has been completed and charge sheet has been filed. It is further submitted that the present applicant is not named in the F.I.R. The police story says that the accused named Sanu whose name has been shown on Serial No.4 in the F.I.R. is in fact, the present applicant Sajid whose real name is Sajid @ Shanu. It is next submitted that no specific role of assault has been assigned to the present accused applicant. It is also submitted that there is no independent witness of the incident. It is further submitted that the criminal history of two cases in the name of present applicant has been explained. It is further submitted that during the course of investigation, the accused applicant has been cooperative so far and now no charge sheet has been submitted in

this matter as yet. It has been submitted that in case applicant is granted anticipatory bail, he shall not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. opposed the prayer for anticipatory bail and it has been vehemently argued that co-accused Zubair, Taalib & Shoaib @ Sanu have been granted regular bail by the coordinate Bench of this Court vide order dated 22.11.2022 passed in Criminal Misc. Bail Application No.51522 of 2022. It is further submitted that all the accused persons had actively and actually participated in the commission of crime and grievous and serious injuries has been sustained by their assault to the informant/injured. It is next submitted that fracture in the partial bone has been found in the medical examination of the injured and he had sustained other injuries as well. It is next submitted that at present, there is no possibility of false implication and ample and sufficient evidence has been collected against him during the course of investigation.

6. 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.

7. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant, all attending facts and circumstances of the case and the fact that allegations are serious in nature, without expressing any opinion on the merits of the case, in my view, it is not a fit case for anticipatory bail to the applicant. Prayer made in the application is refused.

8. The application is **rejected**.

9. Hence, it is observed that the bail application of the applicant, if moved, shall be considered and decided by the Court concerned expeditiously as per law.

Order Date :- 13.12.2023

Shivangi