

Court No. - 78

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 10884 of 2023

Applicant :- Mool Chand

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

Counsel for Applicant :- Rajesh Kumar Yadav, Amit Rana, Sr.
Advocate

Counsel for Opposite Party :- G.A., Mohd. Wasim

Hon'ble Raj Beer Singh, J.

1. Heard Sri V. P. Srivastava, Senior Advocate, assisted by Sri Rajesh Kumar Yadav, learned counsel for the applicant, Sri Anoop Trivedi, Senior Advocate, assisted by Mohd. Wasim, learned counsel appearing for informant as well as learned A. G. A. for the State and perused the record.

2. The present application has been moved seeking anticipatory bail in Complaint Case No. 588 of 2020, under sections-147, 148, 149, 307, 323, 504 and 506 I. P. C., Police Station-Kotwali Shahar, District-Bijnor, with the prayer that in the event of arrest, applicant may be released on bail.

3. It has been argued by the learned Senior Advocate for the applicant that applicant is innocent and he has an apprehension that he may be arrested in the above-mentioned case, whereas there is no credible evidence against him. The alleged incident has been shown of 29.9.2020, but after the incident, no report was lodged and later on a complaint case was filed, wherein, the applicant has been summoned vide order dated 20.8.2022, passed by the C. J. M., Bijnor. Learned Senior Advocate submitted that in the complaint, role of exhortation has been attributed to the

applicant. There is no such allegation that the applicant has caused any injury to the injured. The allegation of causing injury to the injured with the knife, has been attributed to co-accused Amit. It is further submitted that the applicant is seventy two years old person and he has already undergone by-pass surgery. Criminal history shown against the applicant, has been explained in paras 24 to 27 in the affidavit filed in support of the anticipatory bail application. There is no criminal history of any heinous offence. Referring to the facts of the matter, it was submitted that it is a complaint case and the applicant undertakes to co-operate during trial and he would appear as and when required by the Court. It has been stated that in case, the applicant is granted anticipatory bail, he shall not misuse the liberty of bail and would obey all conditions of bail.

4. Learned A.G.A. as well as Sri Anoop Trivedi, learned Senior Advocate for the informant have opposed the prayer for anticipatory bail and submitted that in the statement of the witnesses, it has come in the evidence that the applicant had caught the injured and co-accused Amit caused knife injuries to the injured. It was pointed out that the co-accused Amit is son of the applicant / accused. In the alleged incident, the injured has sustained five injuries and one injury was shown on the vital part of the body. It was further submitted that the applicant has criminal history of four cases.

5. It may be stated that in case of *Siddharam Satlingappa Mhetre v. State of Maharashtra*, (2011) 1 SCC 694, it has been held by Hon'ble Supreme Court that while deciding anticipatory bail, Court must consider nature and gravity of accusation, antecedent of accused, possibility of accused to flee from justice and that Court must evaluate entire available material against the accused

carefully and that the exact role of the accused has also to be taken into consideration.

6. In the instant case, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion on merit of the case, a case for anticipatory bail is made out. The anticipatory bail application is allowed.

7. In the event of arrest of the applicant- Shashi Bhushan Sharma in the aforesaid case crime, he shall be released on anticipatory bail on his furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the Court below concerned with the following conditions :-

(i). The applicant shall not tamper with the evidence during the trial.

(ii). The applicant shall not pressurize/ intimidate the prosecution witness.

(iii). The applicant shall appear before the trial court on the date fixed, unless personal presence is exempted.

(iv). The applicant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

(v). The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer or tamper with the evidence.

8. In case of breach of any of the above condition, the Court below shall be at liberty to cancel bail of applicant in accordance with law.

Order Date :- 4.12.2023

HR