

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11291 of 2023

Applicant :- Girish Tiwari And 5 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Surendra Nath Tripathi

Counsel for Opposite Party :- G.A.,Brijesh Kumar Srivastava

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Surendra Nath Tripathi, learned counsel for the applicants and Sri Brijesh Kumar Srivastava, learned counsel for the informant as well as Sri Deepak Kumar Singh, learned A.G.A. for the State and also perused the material available on record.
3. The present anticipatory bail application has been filed on behalf of the applicants, **Girish Tiwari, Arvind Tiwari, Devesh Tiwari, Phool Pari, Hemlata and Premlata** in Case No. 4251 of 2021 arising out of Case Crime No.162 of 2021, under Sections 147, 323, 325, 352, 307, 427, 504 & 506 of IPC, Police Station Bariarpur, District Deoria, with a prayer to enlarge them on anticipatory bail.
4. As per prosecution story, the applicants are stated to have assaulted the informant and his family members on 26.11.2021 at about 07:00 AM.
5. Learned counsel for the applicants has stated that there are allegations of assault against four persons in the FIR but later on, the number of injured persons are increased to 9. Learned counsel has also stated that the present FIR is a counterblast to the FIR

No.146 of 2021 which was instituted from the side of the applicants, the same day at 09:53 PM regarding the offence of 26.11.2021 at 07:00 AM. Learned counsel has further stated that initially, the application u/s 156(3) Cr.P.C. was moved, the FIR was instituted and the police was pleased to file closure report in the said case.

6. Learned counsel for the applicant has placed much reliance on the statement recorded u/s 161 Cr.P.C. of two independent witnesses, Jokhu Prasad and Surya Narayan Tripathi, who have stated that it was the informant and his family members, who assaulted the applicants and while running back to their house, they have fallen down and sustained injuries. Learned counsel has further stated that injuries sustained by the injured are simple in nature. The applicants have no criminal history and are ready to cooperate in trial.

7. Per contra, learned counsel for the informant as well as learned AGA have vehemently opposed the bail prayer of the applicants on the ground that there are nine injured persons in all and there being a cross version and, as such, the applicants are not entitled for bail.

8. Considering the submissions advanced by learned counsel for the parties, nature of offence, evidence on record, pending trial, complicity of accused, severity of punishment and also the fact that there are nine injured persons from the side of the informant and also there is a cross version, I do not find it a fit case to release the applicants on bail.

9. The bail application 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 bail application and the said observations shall have no bearing on the merits of the case during trial.

(Justice Krishan Pahal)

Order Date :- 12.10.2023
Siddhant