

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11550 of 2023

Applicant :- Baljeet And Another

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

Counsel for Applicant :- Rajeev Kumar Saini

Counsel for Opposite Party :- G.A., Diwakar Singh, Rahul

Hon'ble Nalin Kumar Srivastava, J.

1. Supplementary affidavit filed in the matter is taken on record.
2. This application has been moved on behalf of the applicants - **Baljeet** and **Jaipal** seeking anticipatory bail in Case No.7313 of 2023 arising out of Case Crime No.29 of 2023, under Sections 323, 324, 308, 504, 506 IPC, Police Station Heempur Deepa, District Bijnor.
3. Heard learned counsel for the applicants, learned A.G.A. for the State as well as learned counsel for the opposite party no.2 and perused the record.
4. The present applicants made an assault upon the son of the informant and one Jogendra s/o Tejpal, who sustained injuries and NCR was lodged in the matter under sections 323, 504 IPC, but after investigation, charge-sheet has been submitted under sections 323, 324, 308, 504, 506 IPC.
5. It has been argued by the learned counsel for the applicants that applicants are innocent and they have apprehension of their arrest in the above-mentioned case, whereas there is no credible evidence against them. Allegations levelled against the applicants are false. They have been falsely implicated in this matter. It is further submitted that the report in this case has been lodged 20 days after the alleged incident. Only simple injuries have been caused to the injured. It is further submitted that the entire proceedings of investigation have been completed in haste only with a purpose to submit charge-sheet in any way against the applicants. It is further submitted that during investigation, the applicants have been cooperative. They are having no criminal history to their credit. In case applicants are granted anticipatory bail, they shall not misuse the liberty of bail and would obey all conditions of bail.

6. Per contra, learned A.G.A. as well as learned counsel for the opposite party no.2 opposed the prayer for anticipatory bail and it has been vehemently argued that at the stage of consideration of anticipatory bail application, no benefit is to be given to the accused persons for delay in lodging the report. The main injured Vivek has sustained a number of injuries, which are 10 in numbers and he has also sustained parietal bone fracture in the x-ray of his skull, which is a grievous injury. Other persons have also sustained serious injuries. Applicants are the main assailants. Ample evidence has been collected against them during the course of investigation and in these circumstances, they are not entitled for anticipatory bail.

7. 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.

8. Hence, 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 of the merits of the case, in my view, it is not a fit case for anticipatory bail to the applicants till the end of trial. The prayer made in the application is refused.

9. The anticipatory bail application is **rejected**.

10. In the last, learned counsel for the applicants has urged that

direction for expeditious disposal of the bail application of the applicants be given in the light of the decision of the Hon'ble Apex Court in **Satender Kumar Antil vs. Central Bureau of Investigation and another, 2022 SCC OnLine SC 825**.

11. However, it is observed that the bail application of the applicants, if moved, shall be considered and decided by the Court concerned in terms of the law laid down by the Hon'ble Apex Court in Satender Kumar Antil case (supra).

It is further directed that the learned court concerned, while considering the bail application of the applicants in the light of Satender Kumar Antil case (supra), shall pass an order strictly in compliance of the directions given in the aforesaid judgment by the Hon'ble Supreme Court, in letter and spirit, particularly complying with the order dated 21.3.2023 of the Hon'ble Apex Court in the aforesaid matter.

Order Date :- 18.10.2023

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