

Court No. - 73

**Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11603 of 2023**

Applicant :- Smt Varsha Chaudhary

Opposite Party :- State Of U.P. And Anotehr

Counsel for Applicant :- Ajay Sengar

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. Heard Ms. Gunjan Yadav, learned counsel appearing for the applicant, learned counsel for the informant, learned AGA and perused the material available on record.

2. This application for anticipatory bail has been filed by applicant- **Smt Varsha Chaudhary** in Case No. 167 of 2021 in connection with Case Crime No. 0389 of 2017 under sections 147, 148, 149, 323, 504, 506, 307, 332, 353, 324 IPC and Section 7 of the Unlawful Activities (Prevention) Act, P.S.- Kotwali Kalpi, District- Jalaun.

3. Some violence took place between two rival groups in the village. The police intervened but fire was opened upon police party as well and several persons received injuries in the matter. FIR was lodged on 24.9.2017 against 46 named and several unknown persons but however the present applicant was not named in the FIR.

4. It has been submitted by the learned counsel for the applicant that applicant is innocent and he has apprehension of arrest in the above-mentioned case, whereas there is no credible evidence against him. Allegations levelled against the applicant are false. Charge sheet in the matter has been submitted. It is further submitted that the present applicant is not named in the FIR and his name came into picture in the subsequent statement of the witnesses, the prosecution story is not probable as it was not possible for the informant and other aggrieved person to identify the present applicant in a crowd of hundreds of people. It is further submitted that the present applicant along with some other co-accused moved Cr. Misc. Writ Petition No. 4396 of 2018 before this Court wherein a protection order has been passed on 22.02.2018 in their favour. Now charge sheet has been submitted

and after submission of the charge sheet an Application U/S 482 Cr.P.C. No. 33147 of 2019 was also moved wherein a protection order was granted in favour of the applicant vide order dated 12.9.2019 by this Court but, however, it has been mentioned in the supplementary affidavit that the said protection was not extended after 12.9.2019 and that it why the trial Court proceed with the matter. It is further submitted that no process under Section 82/83 Cr.P.C. has been issued against the applicant and the injuries of the injured person are simple in nature. The applicant is a lady and she has been cooperative during course of investigation. The applicant has no criminal history to her credit. In case applicant is granted anticipatory bail, she will not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. and learned counsel for the informant has opposed the prayer for anticipatory bail. It is vehemently submitted that police party has been attacked in this matter and the present applicant has played an active role in the occurrence.

6. In the present matter charge sheet has been submitted. The applicant has no criminal history to her credit. After submission of charge sheet no custodial interrogation is required.

7. 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 law on the subject finally by holding that the anticipatory bail need not be of limited duration invariably. In appropriate case, it can continue upto conclusion of trial.

8. 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.

9. 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.

10. 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 a fit case for anticipatory bail to the applicant till conclusion of trial in the matter.

11. The anticipatory bail application is **allowed** accordingly.

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

- i. 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 her from disclosing such facts to the Court or to any police officer or tamper with the evidence.
- ii. The applicant shall not pressurize/ intimidate the prosecution witness.
- iii. The applicant shall not commit an offence similar to the offence of which she is accused, or suspected, of the commission of which she is suspected.
- iv. The applicant shall not leave India without prior permission of the Court and if she has passport, the same shall be deposited by her before the S.S.P./S.P. concerned.

13. In case of breach of any of the above conditions, the Investigating Officer shall be at liberty to file appropriate application for cancellation of anticipatory bail of the applicant in accordance with law.

Order Date :- 7.11.2023

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