

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11518 of 2023

Applicant :- Pawan And 3 Others

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Yogesh Kumar Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised. IInd Supplementary affidavit filed today by the learned counsel for the applicants is taken on record.
2. Present Anticipatory Bail Application has been filed with the prayer to grant anticipatory bail to the applicants, **Pawan, Ankit Sharma, Sundar** and **Hemlata**, in Case Crime No. 291 of 2023, u/s 498-A, 323, 504 of I.P.C. and Sections 3/4 of Dowry Prohibition Act, Police Station - Sasani Gate, District - Aligarh.
3. Heard Sri Mahesh Kumar Tripathi, Advocate holding brief of Sri Yogesh Kumar Tiwari, learned counsel for the applicants as well as Sri R.M. Yadav, learned A.G.A. for the State and perused the material available on record.
4. It is submitted by the learned counsel for the applicants that the applicants are innocent and have no concern with the present matter. They have been falsely implicated in this matter. Allegations levelled against the applicants are false. Applicants' case are squarely covered u/s 438 Cr.P.C. It is further submitted that if the applicants are enlarged on bail, they will not misuse the liberty. The applicants have apprehension of their arrest any time.
5. Learned A.G.A. has vehemently opposed the prayer and submitted that on the basis of instructions received, the police is not making any attempt to arrest the applicants, as the alleged offences are punishable with the imprisonment of maximum period of seven years.
6. I have considered the rival submissions made by the learned counsel for the parties and have gone through the entire record carefully.

7. In this matter, as is evident from the record, offences levelled against the applicants are under the aforesaid Sections of I.P.C., which are punishable with the imprisonment upto seven years. Specific provisions under Section 41-A CrPC have been provided giving protection to the accused person from arrest for the offences punishable upto seven years' imprisonment and in ***Arnesh Kumar vs. State of Bihar and another, (2014) 8 SCC 273, the Hon'ble Apex Court*** has also emphasized upon the power of police to arrest without warrant and it has been clarified that a balance between individual liberty and societal order should be made while exercising power of arrest. It has also been directed that where the offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years, whether with or without fine, the police officer shall not arrest the accused unnecessarily and Magistrate shall not authorize detention casually and mechanically. Even in Section 438 CrPC it has been promulgated that accused must have reason to believe that he may be arrested in cognizable offence by the police to get protection of anticipatory bail. Investigation in the matter is going on.

8. In the light of aforesaid provisions, the applicants have no reason to believe that they may be arrested. Hence, having regard to the entire facts and circumstances of the case, no indulgence is warranted in the matter. Prayer made in the application is refused.

9. The application stands **disposed of** accordingly.

Order Date :- 8.12.2023

Siddhant