

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 11556 of 2023

Applicant :- Sanjay And 2 Others

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

Counsel for Applicant :- Keshav Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. This application has been moved on behalf of the applicants - **Sanjay, Sachin** and **Rohtash** seeking anticipatory bail in Case Crime No.129 of 2023, under Sections 147, 323, 307, 504, 506 IPC, Police Station Shivala Kala, District Bijnor.
2. Heard learned counsel for the applicants, learned A.G.A. for the State and perused the record.
3. As per F.I.R., the present applicants along with two other persons made an assault with the aid of lathi, danda, bricks and stones upon the the informant, Jagdish and Sumra Devi. Some other persons have also received injuries in the incident. F.I.R. was lodged on 21.8.2023 and investigation started, which is going on.
4. 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 applicants' side also received injury in the same incident, but their F.I.R. has not been lodged. Present F.I.R. has been lodged on the basis of false allegation. It is further submitted that during investigation, the applicants have been cooperative so far. 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.
5. Per contra, learned A.G.A. opposed the prayer for anticipatory bail and it has been vehemently argued that the injured Hemraj has sustained lacerated wound 2.5 cm. x 0.3 cm. on right side skull 8 cm. above right ear and injured Jagdish Singh has received lacerated wound 3 cm. x 1 cm. x BD from left side base of nose to canthus medial of left eye and contused swelling 6 cm. x 4 cm. on left eye, which are kept under observation. The injuries sustained by the injured are serious in nature. Other persons have also sustained injuries in the incident. Applicants are the main assailants. Ample evidence has been collected against them during the course

of investigation so far and in these circumstances, they are not entitled for anticipatory bail.

6. **In Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has held 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.

7. 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 or till submission of police report under section 173 (2) Cr.P.C. The prayer made in the application is refused.

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

9. In the last, learned counsel for the applicants has urged that direction for expeditious disposal of the bail application of the applicants be given.

10. However, it is observed that the bail application of the applicants, if moved, shall be considered and decided by the Court concerned in accordance with law.

Order Date :- 18.10.2023

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