

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11581 of 2023

Applicant :- Karrua @ Kare Singh

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

Counsel for Applicant :- Neetu Singh, Vishal Kushwaha

Counsel for Opposite Party :- G.A., Anil Kumar

Hon'ble Nalin Kumar Srivastava, J.

1. Heard learned counsel for the applicant, learned counsel for the informant, learned A.G.A. for the State and perused the record.

2. This application has been moved on behalf of the applicant Karrua @ Kare Singh seeking anticipatory bail in Case Crime No. 0299 of 2023 under Sections 323, 308 and 504 IPC, Police Station Saadabad, District- Hathras.

3. As assault was made upon the injured, who was the brother of the informant by named applicant Kalua and his son co-accused Lal @ Pawan, the injured has sustained injury. NCR was lodged under Section 323 I.P.C. and during investigation Section 308 and 504 I.P.C. were added in the matter. Now the charge sheet has been filed.

4. It has been submitted by the learned counsel for the applicant that applicant is innocent and he has apprehension of his arrest in the above-mentioned case, whereas there is no credible evidence against him. Allegations levelled against the applicant are false. The investigation of the case has been completed and charge-sheet has been filed. It is further submitted that in the NCR no weapon has been assigned to any of the accused person for causing injury to the injured but however in his statement under Section 161 Cr.P.C. the informant made an improvement in the prosecution story and stated that the injury was caused by use of fawda. The injured also made a twisted story in his statement under Section 161 Cr.P.C. and use of danda and fawda was stated by him. It is further submitted that in the initial medical examination of the injured only two injuries were found in the nature of lacerated wound and abrasion but subsequently x-ray was performed and supplementary report was prepared which was not in conformity with the first medical report. It is further submitted that the applicant has been cooperative during course of investigation only due to the

village animosity and dispute of money borrowing, he has falsely been implicated in this case. Criminal history of one solitary case against the applicant has been explained in the affidavit. It has been submitted that in case applicant is granted anticipatory bail, he 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 opposed the prayer for anticipatory bail. It is vehemently submitted that there is no necessity to mention a detail story of occurrence alleged in the NCR of the matter. It is further submitted that when the x-ray was performed and the nature of injury was disclosed the matter was converted under Section 308 and 504 I.P.C. It is further submitted that in the supplementary report, the doctor has explicitly opined that the injury no.1, which is the head injury is greivous in nature. It is further submitted that the applicant has actively participated in the commission of the crime and ample evidence has been collected in this regard. Charge sheet in the matter has been filed, as such, the applicant is not entitled for anticipatory bail.

6. In this matter, it reveals that after completion of investigation, charge sheet has been submitted and cognizance has also been taken by the Court concerned. 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.

7. 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.

8. 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, llikelihood 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.

9. In view of the law laid down by the Hon'ble Apex Court, I deem it not a fit case to grant anticipatory bail to the present

applicant. Prayer made in the application is refused.

10. The anticipatory bail application is rejected.

In the last, learned counsel for the applicant has urged that direction be given to the learned Court concerned to consider and decide the bail application of the applicant in terms of the law laid down by the Hon'ble Apex Court in ***Satender Kumar Antil vs. Central Bureau of Investigation and another, 2022 SCC OnLine SC 825.***

11. Hence, it is observed that the bail application of the applicant, 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).

12. It is further directed that the Court concerned while considering the bail application of the applicant in the light of ***Satender Kumar Antil*** case (supra), shall pass an order strictly in compliance of the directions given in the aforesaid judgement 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 :- 7.11.2023

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