

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11623 of 2023

Applicant :- Furkan And Another

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

Counsel for Applicant :- Sandeep Kumar Rai

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

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

2. This application has been moved on behalf of the applicants. **1. Furkan, 2. Irshad** seeking anticipatory bail in Case Crime No. 54 of 2023, under Section 429 IPC, 3/11 of Prevention of Cruelty to Animals Act and 3/5/8 of Cow Slaughter Act, Police Station-Inchauli, District- Meerut.

3. On a police raid to the house of the applicant no.1 some beef along with instruments for slaughtering was recovered and the applicants were also held by the police on spot. FIR under Section 429 I.P.C. and Section 3/11 Prevention of Cruelty to Animals Act was lodged on 13.3.2023. Investigation started and no charge sheet has been submitted so far against the applicants

4. It is submitted by the learned counsel for the applicants that the applicants are innocent and have no concern with the present matter. Allegations levelled against the applicants are false. It is further submitted that investigation is going-on and till date no charge-sheet has been submitted against the accused applicants. It is further submitted that earlier after lodging of the FIR both the applicants were issued notices under Section 41-A Cr.P.C. by the I.O. of the case but subsequently Section 3/5/8 Cow Slaughter Act was also added to the matter. It is further submitted that although the charge sheet was submitted in this matter but it was returned back and further investigation is taking place in this matter. It is further submitted that as per FIR of the case and also from the material available on record, it appears that the sample taken from the spot belongs to buffalo and it was not beef. It is further submitted that the applicants have no criminal history to their credit. They have been cooperative with the investigation so far

and are entitled for anticipatory bail. It is lastly submitted that in case applicants are granted anticipatory bail, they will not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. has opposed the prayer for anticipatory bail. It is vehemently submitted that huge quantity of beef has been recovered from the house of applicant no.1 and both the applicants were held on spot with the beef and also with the instruments which are used in slaughtering the cows. It is further that the FSL report also indicates that the sample did not belong to any buffalo but it was certainly beef and in the additional statement of Dr. Amit Kumar, who has been stated before the I.O. under Section 161 Cr.P.C. that “ the meat examined by me belongs to cow or its progeny the adhere Black and white skin belongs to cow or its progeny of female sex”.

6. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has settled 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 applicants and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, I deem it not a fit case to grant anticipatory bail to the present applicants. Prayer made in the application is refused.

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

Order Date :- 21.11.2023

Fhd