

Court No. - 73

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53589 of 2019

Applicant :- Kallu @Sakir Ali And 2 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Faiz Ahmad

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
2. Apprehending their arrest in Case Crime No. 213 of 2019, under Sections 452, 323, 504, 506, 326 I.P.C., Police Station- Charwa, District- Kaushambi, the present anticipatory bail application has been moved by the applicants - **Kallu @ Sakir Ali, Zakir Ali and Istiyaq** seeking anticipatory bail.
3. It is alleged in the F.I.R. that four named accused persons made an assault with the help of tamancha, lathi etc. upon the informant after entering into his house. Informant and his family members sustained injuries. FIR was lodged on 11.09.2019 and investigation started and now charge sheet has been submitted into the matter.
4. It is submitted by the learned counsel for the applicants that the applicants are innocent and have been falsely implicated in this case. During the course of investigation, interim protection was granted to the applicants in the said case, liberty was not misused by the applicants. It is further submitted that only general role has been assigned to the applicants in the commission of the crime. No specific role of any of the applicants has been disclosed.
5. Per contra, learned A.G.A. vehemently opposed the prayer for anticipatory bail and submitted that injured persons of this case have sustained injuries and the right hand finger of the informant has been amputated because it was bitterly injured by assault made by the applicants and septic developed in the injury and the Doctor had no other option to except to amputate the said finger. It is further submitted that sufficient evidence to this effect has been collected by the I.O. during the investigation and supplementary report of the injured also shows the same condition. It is further

submitted that offence is very serious and the applicants 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 applicants, 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. The prayer made in the application is refused.

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

Order Date :- 28.10.2023

Sharad/-