

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 12333 of 2023

Applicant :- Bhura Alias Taseen & Another

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

Counsel for Applicant :- Chandra Shekhar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised. Supplementary affidavit filed today by the learned counsel for the applicants is taken on record.
2. Heard Sri Chandra Shekhar Mishra, learned counsel for the applicants and Ms. Ifra Islam, learned A.G.A. for the State as well as perused the record.
3. The present anticipatory bail application has been filed on behalf of the applicants, Bhura @ Taseen and Mahboob @ Sannoo, in F.I.R./Case Crime No. 130 of 2018, under Sections 323, 504, 506, 307, 34 of IPC, Police Station- Gagalhedi, District- Saharanpur, with a prayer to enlarge them on anticipatory bail.
4. As per the prosecution story, the applicants, who were carrying lathi danda, and co-accused person Waseem, who was carrying knife, are stated to have assaulted the son of the informant on 31.05.2022 at about 05:00 PM when he was busy in selling vegetables.
5. Learned counsel for the applicants has stated that the applicants have been falsely implicated in the present case. The FIR is delayed by about 13 hours and there is no explanation of the said delay caused. Only one injury has been sustained by the injured person and that too has been caused by sharp edged weapon and the said weapon has been assigned to co-accused Waseem, who has already been enlarged on regular bail by Sessions Judge, Saharanpur vide order dated 17.03.2023 passed in Bail Application No.904 of 2023. Learned counsel has further stated that the role of the applicants is different to the main accused Waseem as no injury has been sustained by the injured from the weapon that is shown being carried by the applicants, as such, they are entitled for anticipatory bail. The applicants had also filed a Criminal Misc. Writ Petition No.18350 of 2018 before this Court and on 12.07.2018, this Court has mentioned in the order that parties had reached a compromise in the dispute outside the court before the police. There is no criminal history of the applicants.
6. Per contra, learned AGA has vehemently opposed the prayer for

anticipatory bail on the ground that the co-accused Waseem has been enlarged on regular bail and not on anticipatory bail, as such, they are not entitled for anticipatory bail.

7. Considering the facts and circumstances of the case and also the arguments advanced by the learned counsel for the parties, this Court finds that the arguments tendered at bar pertain to regular bail application and cannot be agitated u/s 438 Cr.P.C. coupled by the fact that the co-accused has been enlarged on regular bail, I do not find it a fit case for granting the anticipatory bail to the applicants.

8. In view of the above, the present anticipatory bail application is rejected.

(Justice Krishan Pahal)

Order Date :- 23.11.2023
Siddhant