

Court No. - 71

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12567 of 2023

Applicant :- Amarnath

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

Counsel for Applicant :- Subhash Chandra, Shyam Babu
Vaish

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav, J.

1. Heard learned counsel for the applicant and learned Additional Government Advocate for the State.

2. This anticipatory bail application (under section 438 Cr.P.C.) has been moved seeking bail in Case Crime No.578 of 2017, under Sections 147, 148, 149, 307, 325, 332, 333, 336, 353, 504, 506, 427, 120-B IPC and 7 Criminal Law Amendment Act, Police Station- Dhanghata, District - Sant Kabir Nagar.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the present case, in fact, no such incident has taken place. The applicant has never committed any offence as alleged in the impugned FIR. The applicant is a labour. It is a case of no injury. In the alleged incident, nobody has received injury. The actual fact is that police have demanded illegal money from the applicant and other co-accused persons and when demand were not fulfilled, they have been falsely implicated in the present case. He further submits that initially the impugned FIR has been lodged against 52 accused persons out of which co-accused persons, namely, Ram Belas @ Ram Bilas, Ram Daras, Guddi, Devendra Yadav, Satish Maurya @ Santosh Maurya have been granted regular bail by this Court. He further submits that the applicant is having no previous criminal history as has been mentioned in paragraph 18 of the affidavit.

4. Learned counsel for the applicant further submits that applicant has apprehension of imminent arrest and in case, applicant is released on anticipatory bail, he will not misuse

the liberty and would co-operate with the trial.

5. Learned A.G.A. has vehemently opposed the prayer for anticipatory bail of the applicant and has submitted that the applicant and other named co-accused persons have thrown bricks and also committed maarpeet, as a result, left leg of S.H.O. concerned got fractured and several persons have sustained injuries. The allegations are very serious and keeping in view the seriousness of the allegations made against the applicant, applicant is not entitled to grant of anticipatory bail. The apprehension of the applicant is not founded on any material on record. Only on the basis of imaginary fear, anticipatory bail cannot be granted.

6. In the light of above, looking to the facts and circumstances of this case, submissions of learned counsel for the parties as mentioned above, taking into consideration the role assigned to the applicant as per prosecution case, gravity and nature of accusation, this Court is of the view that no case for exercising its discretionary power under Section 438 Cr.P.C. is made out in favour of the applicant.

7. Accordingly, this application under Section 438 Cr.P.C. is **dismissed**. Applicant is advised to move regular bail application before the appropriate forum and if such application is given, the court below shall consider and disposed of the bail application expeditiously in accordance with law.

Order Date :- 6.12.2023
Krishna*