

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12015 of 2023

Applicant :- Kamlesh And 5 Others

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

Counsel for Applicant :- Sanjay Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Jawahar Yadav, learned Advocate holding brief for Sri Sanjay Kumar Yadav, learned counsel for applicants as well as Sri Sunil Kumar Yadav, learned counsel for the informant and Sri Sunil Kumar, learned A.G.A. for the State and also perused the material available on record.
3. The present application for anticipatory bail has been filed for protection in regard to FIR/Case Crime No. 353 of 2023, under Sections 34, 323, 329, 458 I.P.C., P.S.- Phoolpur, District-Azamgarh.
4. As per prosecution story, the applicants alongwith three other named accused persons, are stated to have assaulted the informant over a dispute pertaining to land of Gata 668 on 23.8.2023 at about 7.00 pm.
5. Learned counsel for the applicants has stated that the applicants have been falsely implicated in the present case. Learned counsel has next stated that the FIR is delayed by one day and there is no explanation of the said delay caused. It is further stated that the injuries are simple in nature. The applicants have no other criminal history except four FIRs in all, instituted by the same informant regarding the same land dispute. It is also stated that in Case Crime No. 185 of 2023, the applicants had applied for anticipatory bail and the proceedings have been stayed qua the applicants vide order dated 26.7.2023. The said order is annexed as Annexure-5 to the affidavit annexed with the application. In case, the anticipatory bail application of the applicants is allowed, they will not misuse the liberty and shall cooperate with trial.

6. Per contra, learned A.G.A. has vehemently opposed the prayer for anticipatory bail on the ground that there are two other cases namely, Crime No. 257 of 2023 and Crime No. 342 of 2023, in which the applicants are wanted and that no bail orders regarding them have been annexed with the anticipatory bail application.

7. In rebuttal, learned counsel for the applicants has stated that he does not have the knowledge of the said cases and that all the FIRs have been instituted by one and the same informant.

8. Considering the rival submissions advanced by the learned counsel for the parties and taking into consideration the injuries sustained by the informant and also the fact that the criminal history of the applicants has not been explained, I do not find it a fit case for grant of anticipatory bail to the applicants as the arguments advanced by learned counsel for the applicants pertain to regular bail application and cannot be agitated at this stage u/s 438 Cr.P.C.

9. In view of the above, the present anticipatory bail application of the applicants **Kamlesh, Hariram, Angad, Baliram, Lachhiram and Mukesh** is found devoid of merits and is, accordingly, **rejected**.

10. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of anticipatory bail application and the said observations shall have no bearing on the merits of the case.

(Justice Krishan Pahal)

Order Date :- 17.11.2023

Shalini