

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12072 of 2023

Applicant :- Tejpal And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Sanjay Kumar Dubey

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. Tejpal 2. Gajendra seeking anticipatory bail in Case Crime No. 396 of 2023, under Sections 452, 323, 504, 506, 326 IPC, Police Station- Sikandrara, District- Hathras.

3. Due to some election animosity the applicant came to the house of the victim and after entering into his house applicant no.1 made an assault upon his face with sharp edged weapon and he was also assaulted by kicking and fisting. FIR was lodged on 15.7.2023 and investigation started, which is going on.

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 argued that investigation is going-on and till date no charge-sheet has been submitted against the accused applicants. It is further submitted that only general role has been assigned to the present applicants. It is also submitted that the factual position is this that the informant fell down and sustained nose injury. FIR of this case has been lodged four days after the delay without any explanation of inordinate delay. It is further submitted that the criminal history of the applicants has been explained and they are cooperating with the investigation. 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 the injured/ informant in his statement under Section 161 Cr.P.C. has corroborated the FIR

version. Specific role of assault with sharp edged weapon has been assigned to the applicants. The injured has sustained grievous injury in his face and his nose has been deformed due to assault made by the applicant no.1 with the sharp edged weapon. Applicant no.2 was also cooperating the applicant no.1 during commission of the crime. It is further submitted that since the family members of the injured were engaged in his medical treatment the FIR could not be lodged immediately. It is further submitted that at this stage there is no possibility of any false implication to the present applicants.

6. In the present matter grievous injury has been caused to the injured and a deformation of his nose has also been found. Both the applicants have actively participated in the commission of the crime and there is ample evidence against them at this stage.

7. 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.

8. 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.

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

Order Date :- 13.12.2023

Fhd