

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12133 of 2023

Applicant :- Rakesh Sharma And 2 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohd. Irfan

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard learned counsel for applicants and as well as Sri Pranshu Kumar, learned A.G.A. for State and also perused the material available on record.
3. The present application for anticipatory bail has been filed for protection in regard to S.T. No. 236 of 2014, arising out of FIR/Case Crime No. 839 of 2008, under Sections 147, 148, 149, 307, 336, 353, 332, 441, 427, 323, 504 I.P.C. and 7 Criminal Law Amendment Act, P.S.- Shahzad Nagar, District- Rampur.
4. As per prosecution story, the school child had expired in the road accident, as such, the public at large had jammed the traffic at National Highway at Rampur and the persons (both named as well as unknown) were involved in assaulting the police personnel and causing injuries to several of them. The public at large was put to inconvenience by the said act of the applicants and other co-accused persons.
5. Learned counsel for the applicants has stated that the applicants have been falsely implicated in the present case. The applicants have nothing to do with the said offence. The statement of several witnesses including the informant Najmul Shaquib and Constable 244 Harpal Sharma, 418 Ghasi Ram, 200 Naseem Raza, 373 Chetan Singh and S.I. Mahavir Singh have categorically stated that they had seen the applicants at the place of occurrence but they were trying to pacify the public at large and were not at all involved in the said jamming of National Highway. Despite the said statements, the investigating officer had submitted the charge sheet against the applicants on 1.9.2009.

6. Learned counsel has further stated that the applicants are bonafide persons of the society. It is further stated that the applicants had filed a petition u/s 482 Cr.P.C. No. 8406 of 2010 before this Court and the applicants were directed to move a discharge application through their counsel vide order dated 30.3.2010 and the said petition was disposed of. It is further stated that the applicants had moved the discharge application and the same was dismissed by the Additional Sessions Judge, Court No. 6, Rampur in S.T. No. 236 of 2014 vide order dated 30.6.2023. Learned counsel has stated that the applicants had also challenged the said dismissal of discharge application order dated 30.6.2023 by filing a petition u/s 482 Cr.P.C. before this Court as Application u/s 482 Cr.P.C. No. 25854 of 2023, which was dismissed vide order dated 19.7.2023 for lack in merits.

7. Per contra, learned A.G.A. has vehemently opposed the prayer for anticipatory bail on the ground that the applicants had agitated the provisions of Section 482 Cr.P.C. twice and failed, as such, they are not entitled for anticipatory bail. Learned counsel has placed much reliance upon the judgement of this Court passed in *Shivam Vs. State of U.P. and Another*, reported in *AIROnline 2021 All 484*.

8. Learned A.G.A. has further stated that as to why the investigating officer asked the witnesses about the names of the applicants, is beyond comprehension. He has also placed reliance on the judgment of the Apex Court passed in the case of *K. Jayaram vs. BDA*, (2022) 12 SCC 815, whereby it has been held as follows:-

"In order to check multiplicity of proceedings pertaining to the same subject-matter and more importantly to stop the menace of soliciting inconsistent orders through different judicial forums by suppressing material facts either by remaining silent or by making misleading statements in the pleadings in order to escape the liability of making a false statement, the parties have to disclose the details of all legal proceedings and litigations either past or present concerning any part of the subject-matter of dispute which is within their knowledge. In case, according to the parties to the dispute, no legal proceedings or court litigations was or is pending, they have to mandatorily state so in their pleadings in order to resolve the dispute between the parties in accordance with law."

9. Considering the rival submissions advanced by the learned counsel for the parties, the fact that the applicants had agitated the provisions of Section 482 Cr.P.C. twice and failed, the case laws of *Shivam (Supra)* and *K. Jayaram (supra)* referred by learned A.G.A., material on record and also the facts of the case, I do not

find it a fit case for granting anticipatory bail to the applicants.

10. In view of the above, the present anticipatory bail application is found devoid of merits and is, accordingly, **rejected**.

(Justice Krishan Pahal)

Order Date :- 3.11.2023

Shalini