

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12452 of 2023

Applicant :- Mohd. Athar

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

Counsel for Applicant :- Chandra Bir Singh

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Chandra Bir Singh, learned counsel for the applicant, Sri Sunil Kumar, learned A.G.A. for the State and perused the material placed on record.
3. The present application for anticipatory bail has been filed for anticipatory bail in Case Crime No.78 of 2023, under Sections 147, 148, 504, 506, 307 and 325 IPC, Police Station Delhigate, District Meerut, during the pendency of trial.
4. As per prosecution story, the applicant alongwith other co-accused persons was found selling smack in front of the house of the informant on 21.04.2023 at 4:00 p.m. On being asked to refrain from doing so, the applicant and other co-accused persons are stated to have chased him and somehow the informant and his family members could escape themselves. They dialed 112 and called the police, whereby one Reshma is stated to have supported them. The said act was video recorded and was shown to the police. Peeved by the said act, the applicant and other co-accused persons are stated to have barged into the shop of the son of the informant at about 7:00 p.m. and assaulted him, thereby fracturing his hands and leg and caused grievous injuries all over the body.
5. Learned counsel for the applicant has submitted that the applicant has been falsely implicated in the present case. The applicant was not selling the smack rather it was the co-accused person Sonu who was doing so. He has nothing to do with the said offence. There are general allegations in the FIR and no role has been assigned to any accused persons. Learned counsel has further stated that the identity of three unknown persons has not yet been established.
6. Learned counsel for the applicant has further stated that the

informant is a person with criminal antecedents as several FIRs were instituted against him and his family members that are FIR No.101 of 2015, under Sections 452, 323, 504 and 506 I.P.C., P.S. Delhigate, Meerut, FIR No.102 of 2015, under Sections 147, 323, 504 and 506 I.P.C., P.S. Delhigate, Meerut and the father of the applicant was witness in them. A complaint case was filed against the father of the informant under Section 498-A in West Bangal, in which also the father of the applicant was a witness. Learned counsel has further stated that the present FIR is a counterblast to the said cases instituted. The injuries are not on vital organ of the body. The criminal history of one case assigned to the applicant stands explained as he is on bail in the said case.

7. Per contra, learned A.G.A. has opposed the anticipatory bail application on the ground that there are eleven injuries sustained by the injured person and the injuries have been caused all over his body. Learned A.G.A. has further stated that the injury report has been prepared promptly the same day at 8:05 p.m. on 21.04.2023. Learned A.G.A. has further stated that the arguments tendered at Bar pertain to regular bail application and cannot be agitated at the stage of 438 Cr.P.C.

8. After hearing learned counsel for the parties and taking into consideration the injuries sustained by the injured person and the fact that the applicant is named in the FIR coupled with the fact that the applicant has criminal history of one case, I do not find it a fit case for grant of anticipatory bail to the applicant. The arguments tendered at Bar pertain to regular bail application and cannot be agitated at the stage of 438 Cr.P.C.

9. The present anticipatory bail application is hereby 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 during trial.

Order Date :- 07.12.2023

Ravi Kant

(Krishan Pahal, J.)