

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12171 of 2023

Applicant :- Sudheer Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Jitendra Singh

Counsel for Opposite Party :- G.A., Balram Singh

Hon'ble Nalin Kumar Srivastava, J.

1. This application has been moved on behalf of the applicant - **Sudheer Kumar** seeking anticipatory bail in Case Crime No.118 of 2023, under Sections 147, 148, 149, 307, 394 IPC, Police Station Ughaiti, District Budaun.

2. Heard learned counsel for the applicant, learned A.G.A. for the State as well as learned counsel for the informant and perused the record.

3. As per F.I.R. of the case, the named accused persons made an assault upon the father of the informant by use of firearm, who sustained serious injuries. F.I.R. was lodged on 29.6.2023 and investigation started, which is going on.

4. It has been argued by the learned counsel for the applicant that applicant is innocent and he has apprehension of his arrest in the above-mentioned case, whereas there is no credible evidence against them. He has been falsely implicated in this matter. Allegations levelled against the applicant are false. It is further submitted that no specific role of firing has been assigned to the applicant in the F.I.R. itself and the injured himself has stated in his statement u/s 161 Cr.P.C. that he could not see as to who were the assailants. Earlier, an F.I.R. bearing case crime no.103 of 2023 under sections 498-A, 323, 504, 506 IPC and 3/4 Dowry Prohibition Act was lodged against the present applicant by his wife, who happens to be the sister of the informant. In consequence of the aforesaid false F.I.R., present F.I.R. has been lodged against the applicant by falsely implicating him. It is further submitted that the applicant has no criminal antecedents to this credit. He has been cooperative with the investigation so far. The injuries sustained by the injured are simple in nature and as such the applicant is entitled for anticipatory bail.

5. Per contra, learned A.G.A. as well as learned counsel for the informant vehemently opposed the prayer for anticipatory bail and it has been submitted that the accused applicant and other accused persons of this case were pressurizing the informant and his sister to make a compromise in the F.I.R. lodged at case crime no.103 of 2023 by them, but when it was refused, fatal attack was made upon the father of the informant. In the F.I.R. itself, a specific role of firing has been assigned to the present applicant and the submission made in this behalf by the learned counsel for the applicant is totally wrong and out of record. It is further submitted that the injured in his statement u/s 161 Cr.P.C. has corroborated this version that the fire was made by the applicant himself. It is also submitted that firearm injuries have been caused to the injured and he has sustained grievous and serious injuries, as reflects from the medical and C.T. scan reports of the injured.

6. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has 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.

7. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant and all attending facts and circumstances of the case and also keeping in view the seriousness and gravity of the offence, without expressing any opinion of the merits of the case, in my view, it is not a fit case for anticipatory bail to the applicant till the end of the trial.

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

Order Date :- 24.11.2023

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