

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12251 of 2023

Applicant :- Ravindra Nath

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

Counsel for Applicant :- Pradeep Yadav

Counsel for Opposite Party :- G.A.,Mohd. Afzal

Hon'ble Nalin Kumar Srivastava,J.

1. Short counter affidavit filed on behalf of the informant is taken on record.
2. Heard learned counsel for the applicant, learned A.G.A. for the State as well as learned counsel for the informant / opposite party no.2 and perused the record.
3. This application has been moved on behalf of the applicant - **Ravindra Nath** seeking anticipatory bail in Case Crime No.221 of 2023, under Sections 323, 504, 506, 308, 304 IPC, Police Station Atrauliya, District Azamgarh.
4. An assault was made by the accused persons upon Arun Kumar Anand, the uncle of the informant with the aid of lathi, danda, kicks and fists and he sustained injuries. They also threatened him to kill. F.I.R. was lodged under sections 308, 323, 504, 506 IPC. Subsequently, the injured died and section 304 IPC was also added to the matter.
5. Learned counsel for the applicants submits that that applicant is innocent and he has apprehension of arrest in the above-mentioned case, whereas there is no credible evidence against him. He has been falsely implicated in this matter due to enmity. Allegations levelled against the applicant are false. Investigation is going on into the matter. It is further submitted that the applicant is not named in the F.I.R. His name came to surface during the course of investigation in the statement of the witnesses. It is further submitted that no specific role has been assigned to the present applicant. Informant is not an eyewitness of the alleged incident. It is also submitted that a civil suit is also pending between the parties. Applicant is a practicing lawyer. It is further submitted that

the applicant is cooperating with the investigation. Criminal history of the applicant has been explained. No custodial interrogation is required in the matter. In case the applicant is granted anticipatory bail, he shall not misuse the liberty of bail and would obey all conditions of bail.

6. Learned A.G.A. opposed the prayer for anticipatory bail and it has been vehemently argued that ample and sufficient evidence has been collected during investigation so far against the applicant in the commission of the crime. Allegation of making serious assault upon the injured has been levelled against the applicant and co-accused, which subsequently resulted into the death of the injured. It is a case pertaining to culpable homicide not amounting to murder. Medical evidence fully supports the prosecution version. At this stage, no possibility of false implication of the applicant comes into light. In these circumstances, the applicant is not entitled for anticipatory bail.

7. 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.

8. Keeping in view the facts and circumstances of the case, the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant, in my view, it is not a fit case for anticipatory bail to the applicant.

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

Order Date :- 20.11.2023

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