

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12389 of 2023

Applicant :- Durga Prasad

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

Counsel for Applicant :- Arvind Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Arvind Kumar, learned counsel for the applicant, Sri Shakil Ahmad, 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.132 of 2021, under Section 307 I.P.C., Police Station Govind Nagar, District Kanpur Nagar, during the pendency of trial.
4. As per prosecution story, the vehicles of the applicant and son of the informant are stated to have met with an accident with each other on 29.3.2021. Peeved by the said incident, the applicant and other co-accused persons are stated to have assaulted him by the hard and blunt object, thereby causing grievous injuries to him.
5. Learned counsel for the applicant has submitted that he has been falsely implicated in the present case. The FIR is delayed by about three days and there is no explanation of the said delay caused. Learned counsel has further stated that the injury report cannot be substantiated by the weapon which the applicant is stated to have been carrying. The other co-accused persons have been enlarged on regular bail. Learned counsel has stated that the victim was found having consumed alcohol as per the supplementary report filed with the affidavit.
6. Learned counsel for the applicant has further placed reliance on the statement of injured person, whereby he has stated that applicant had assaulted him by hard and blunt object and there are general allegations against all the accused persons. The accused persons are four in number and the injuries sustained by the injured person are three in number. The said injuries could have been sustained in an accident. Several other

submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length.

7. Per contra, learned AGA has vehemently opposed the anticipatory bail application on the ground that three injuries have been sustained by the injured person on the vital organ of the body. Furthermore, it is mentioned in the FIR that the informant was busy in the treatment of injured person and after getting some relief there she approached the police station and lodged the FIR. Learned A.G.A. has stated that it was paramount duty of the informant to first save the life of injured and then lodge the FIR.

8. After taking into consideration the rival contentions and the fact that the injured person has sustained three injuries that too on the vital part of the body, i.e. head and also that the arguments tendered at Bar by learned counsel for the applicant pertains to regular bail and they cannot be agitated under the provisions of Section 438 Cr.P.C., I do not find it a fit case for grant of anticipatory bail to the applicant.

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 :- 8.11.2023

Vikas

[Krishan Pahal, J.]