

**Court No. - 72**

**Case :-** CRIMINAL MISC ANTICIPATORY BAIL  
APPLICATION U/S 438 CR.P.C. No. - 12433 of 2023

**Applicant :-** Shekhu @ Shakeel And 2 Others

**Opposite Party :-** State Of U.P.And Another

**Counsel for Applicant :-** Syed Irfan Ali

**Counsel for Opposite Party :-** G.A.

**Hon'ble Krishan Pahal,J.**

1. List has been revised.
2. Heard Sri Syed Irfan Ali, learned counsel for the applicants and Sri Shakil Ahmad, learned A.G.A. for the State as well as perused the record.
3. The present anticipatory bail application has been filed on behalf of the applicants in Case Crime No.277 of 2021, registered under Sections 452, 323, 354-Kha, 504, 506 I.P.C. at Police Station- Delhi Gate, District- Aligarh with a prayer to enlarge them on anticipatory bail.
4. As per prosecution story, the applicants are stated to have barged into the house of the informant and outraged her modesty and also assaulted her with knife.
5. Learned counsel for the applicants has stated that they have been falsely implicated in this case. The injury report indicates the injuries to be simple in nature. There is only one linear injury sustained by the victim on her right forearm. Learned counsel has stated that the said injury can be sustained by fall also. The FIR is delayed by about seven hours and there is no explanation of the said delay caused. Learned counsel has further stated that there is no possibility of applicants committing the said offence as they are close relatives. There is civil litigation going on between the parties which has been filed as Annexures-5 to 7 of the affidavit.
6. Learned counsel for the applicant has further stated that there is no previous criminal history of the applicants except one case under the Goondas Act and the period of externment has expired. Several other submissions have been made on behalf of the applicants to demonstrate the falsity of the allegations made against them. The circumstances which, as per counsel, led to the false implication of the applicants have also been touched

upon at length. The applicants have apprehension of their arrest. Learned counsel has stated that the applicants undertake that they have co-operated in the investigation and are ready to do so in trial also failing which the State can move appropriate application for cancellation of anticipatory bail.

7. Per contra, learned A.G.A. has vehemently opposed the anticipatory bail application but unable to dispute the submissions raised by the learned counsel for the applicants.

8. On due consideration to the arguments advanced by learned counsel for the applicants as well as learned A.G.A. and considering the nature of accusations and antecedents of the applicants, the applicants are liable to be enlarged on anticipatory bail in view of the judgment of Supreme Court in the case of "***Sushila Aggarwal Vs. State (NCT of Delhi), (2020) 5 SCC 1***". The future contingencies regarding the anticipatory bail being granted to applicants shall also be taken care of as per the aforesaid judgment of the Apex Court.

9. In view of the above, the anticipatory bail application of the applicants is allowed. Let the accused-applicants- **Shekhu @ Shakeel, Mohd. Jaid** and **Robin @ Laeeq Ahmad** be released forthwith in the aforesaid case crime (supra) on anticipatory bail till the conclusion of trial on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

- (i). that the applicants shall make themselves available for interrogation by a police officer as and when required;
- (ii). that the applicants shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the court or to any police officer or tamper with the evidence;
- (iii). that the applicants shall not leave India without the previous permission of the court;
- (iv). that in case charge-sheet is submitted the applicants shall not tamper with the evidence during the trial;
- (v). that the applicants shall not pressurize/ intimidate the prosecution witness;
- (vi). that the applicants shall appear before the trial court on each date fixed unless personal presence is exempted;
- (vii). that in case of breach of any of the above conditions the court below shall have the liberty to cancel the bail.

10. It is made clear that observations made hereinabove are exclusively for deciding the instant anticipatory bail application and shall not affect the trial.

**Order Date :- 9.11.2023/Vikas**

**[Krishan Pahal, J.]**