

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12318 of 2023

Applicant :- Ram Murat Yadav And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Pawan Kumar, Satish Kumar Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. This application has been moved on behalf of the applicants **Ram Murat Yadav** and **Prem Narayan** seeking anticipatory bail in Case Crime No. 03 of 2023, under Sections 323, 506, 452, 308 IPC, Police Station Nautanwa, District Maharajganj.

2. Heard learned counsel for the applicants, learned A.G.A. for the State and perused the record.

3. It is submitted by the learned counsel for the applicants that applicants are innocent and they have apprehension of their arrest in the above-mentioned case, whereas there is no credible evidence against them. Allegations levelled against the applicants are false. It is further submitted that no specific role of assault has been assigned to the present applicants in this case. It is also submitted that as per the injury report of the injured Santosh Yadav, he has sustained only simple injuries and the injury, which was advised for x-ray, was also not having any bony fracture in the x-ray report. Other injured persons have sustained simple injuries. In the C.T. Scan of the injured Santosh Yadav, which was performed 21 days after the incident, fracture has been found in the skull area. The investigation of the case has been completed and charge sheet has been filed. It is also submitted that during investigation the applicants had been cooperative and no specific role has been assigned to the applicants in the F.I.R. or in the statements of the injured persons. Applicants have no criminal history to their credit. It has been submitted that in case applicants are granted anticipatory bail, they shall not misuse the liberty of bail and would obey all conditions of bail.

4. Learned A.G.A. opposed the prayer for anticipatory bail and submitted that in the C.T. Scan report of injured Santosh Yadav fracture of due inner fault of right parental bone has been found

which is a grievous injury. The doctor has opined that the said injury is of grievous nature and all the witnesses of fact have supported the prosecution case in their statements. The applicants have actively participated in commission of the crime. Ample and sufficient evidence has been collected against the applicants during investigation.

5. I have considered the rival submissions made by the learned counsel for the parties.

6. It reveals from the perusal of the record that five named accused persons including the present applicants made assault upon the informant, his son and wife due to animosity of cutting of Shisham tree. Injured persons sustained injuries and F.I.R. was lodged on 5.1.2023 and investigation started, which culminated into charge sheet. It also reveals from the perusal of the record that active role and active participation of both the applicants has been found in commission of the crime during investigation and in the skull area fracture has been found to injured Santosh Yadav. The doctor has opined the said injury as grievous in nature.

7. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has settled the controversy finally by holding the anticipatory bail need not be of limited duration invariably. In appropriate case, it can continue upto conclusion of trial.

It has been further held therein that anticipatory bail granted can, depending on the conduct and behavior of the accused, continue after filing of the charge sheet till end of trial.

It has been further held by the Hon'ble Apex Court 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. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicants, all attending facts and circumstances of the case and the fact that allegations are

serious in nature, without expressing any opinion on the merits of the case, in my view, it is not a fit case for anticipatory bail to the applicants. Prayer made in the application is refused.

9. The application is **rejected**.

10. However, it is observed that the bail application of the applicants, if moved, shall be considered and decided by the Court concerned in terms of the law laid down by the Hon'ble Apex Court in **Satender Kumar Antil vs. Central Bureau of Investigation and another, 2022 SCC OnLine SC 825**.

Order Date :- 8.11.2023

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