

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12357 of 2023

Applicant :- Mannu @ Monu Pandey And 2 Others

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

Counsel for Applicant :- Shailendra Kumar Rai

Counsel for Opposite Party :- G.A.,Raj Kumar Singh

Hon'ble Nalin Kumar Srivastava,J.

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

2. This application has been moved on behalf of the applicants **Mannu @ Monu Pandey, Lallan Pandey & Parwati Devi** seeking anticipatory bail in Case Crime No. 30 of 2023, under Sections 147, 323, 504, 506, 336, 308 IPC, Police Station Nagsar Halt, District Ghazipur.

3. It is alleged in the F.I.R. that the named accused persons seven in number including the present applicants made an assault upon the informant at his house with the aid of lathi, danda and bricks etc. He sustained serious injuries. F.I.R. was lodged on 08.06.2023 and investigation started and now, the charge sheet has been submitted in this matter.

4. It has been 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. The investigation of the case has been completed and charge sheet has been filed. 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.

5. It is further submitted that only simple injury has been caused to the single injured in this matter. It is next submitted that in the X-ray report, no adversity has been discovered and in the CT Scan report, the injury no.1 also reflects that the injury was normal. It is further submitted that only general role of assault has been assigned to all the named accused persons in this case and the prosecution story is totally unnatural in view of the fact that the

assault is said to be made by accused persons, seven in number and only four injuries have been found on the body of the informant. It is next submitted that as a matter of fact, the girl child from the accused family was eve teased by the son of the informant and in reference of that, the present F.I.R. has been lodged with false allegations. It is next submitted that during investigation, notice under Section 41-A Cr.P.C. was given to the accused applicants and the said liberty was never misused by them. It is also submitted that the accused applicants have no criminal history to their credit and they have been cooperative during the course of investigation and as such, they are entitled for anticipatory bail.

6. Learned A.G.A. as well as learned counsel for the informant have opposed the prayer for anticipatory bail and it has been vehemently submitted that the informant has sustained serious injuries in the skull area and on the basis of the supplementary report, the matter was converted under Section 308 I.P.C. during investigation. It is also submitted that the submission made by the accused side are baseless and their application under Section 156(3) Cr.P.C. against the informant side was rejected by the court. It is further submitted that there is no ground for false implication of the present applicant.

7. The attention of the Court is to drawn towards the statement of doctor, who had medically examined the informant and has stated before the I.O. that the head injury sustained by the injured is grievous in nature. The witnesses of the occurrence have stated about the active role and participation of the applicants in the commission of the alleged crime.

8. Although the charge sheet has been submitted in this matter but 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.

9. 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 applicant. Prayer made in the application is refused.

10. The application is **disposed of**.

11. However, in the last, learned counsel for the applicants has urged that direction be given to the learned Court concerned to consider and decide the bail application of the applicants 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***.

12. Hence, 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*** case (supra).

13. It is further directed that the Court concerned while considering the bail application of the applicants in the light of ***Satender Kumar Antil*** case (supra), shall pass an order strictly in compliance of the directions given in the aforesaid judgement by the Hon'ble Supreme Court, in letter and spirit, particularly complying with the order dated 21.3.2023 of the Hon'ble Apex Court in the aforesaid matter.

Order Date :- 21.11.2023

Shivangi