

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12521 of 2023

Applicant :- Virendra Alias Vivek Gupta And Another

Opposite Party :- State Of U.P.And 2 Others

Counsel for Applicant :- Sudhanshu Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Sudhanshu Pandey, learned counsel for the applicants, Sri Anit Kumar Shukla, learned A.G.A. for the State and perused the material placed on record.
3. The present application for anticipatory bail has been filed on behalf of the applicants- Virendra Alias Vivek Gupta and Manoj Gupta for anticipatory bail in Case Crime No.491 of 2023, under Sections 147, 148, 149, 323, 324, 307, 504 and 506 IPC, Police Station Pipiganj, District Gorakhpur, during the pendency of trial.
4. As per prosecution story, the applicants and their brother Arvind Gupta were found involved in an altercation with the Lekhpal. As such, the matter was settled after dialing at 112 number and subsequent to it, when the informant alongwith other colleagues proceeded to go to the police station to lodge the FIR, the applicants alongwith other co-accused persons are stated to have assaulted them thereby causing injuries to three persons in all on 08.10.2023 at about 03:00 p.m.
5. Learned counsel for the applicants has stated that the applicants have nothing to do with the said incident. They have no land on the way where the incident occurred. The applicants own a shop in the city and are businessmen and they have been falsely implicated in the present case. Learned counsel has further stated that there is a cross version to the present case and FIR No.493 of 2023 was instituted by the brother of the applicants Arvind Gupta against the informant and other family members on 09.10.2023 at about 05:02 p.m.
6. Learned counsel for the applicants has further stated that at this point of time, it cannot be ascertained as to which party was the aggressor. The applicants are the victim of the said incident.

There are no criminal antecedents of the applicants. 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.

7. Per contra, learned A.G.A. has opposed the anticipatory bail application.

8. After hearing learned counsel for the parties and taking into consideration the fact that there is a cross version to the present case, thus the presence of the applicants cannot be disputed, I do not find it a fit case for grant of anticipatory bail to the applicant. The arguments tendered at Bar pertain to regular bail application and cannot be agitated at the stage of 438 Cr.P.C.

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 :- 22.11.2023

Ravi Kant

(Krishan Pahal, J.)