

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12677 of 2023

Applicant :- Munnann @ Munna Lal

Opposite Party :- State of U.P.

Counsel for Applicant :- Pradeep Kumar Singh, Yatindra

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Yatindra, learned counsel for applicant as well as Sri R.P. Patel, learned A.G.A. for State and also perused the material available on record.
3. The present application for anticipatory bail has been filed for protection in regard to FIR/Case Crime No. 0587 of 2019, under Sections 452, 323, 504, 506 and 308 I.P.C., P.S.- Meja, District- Prayagraj.
4. As per prosecution story, the applicant alongwith the co-accused persons Subbalal, Nathu Ram and Rakesh Kotar are stated to have come to the house of the informant and started hurling abuses at him on 27.6.2019 at about 9.00 pm and all the accused persons are stated to have assaulted him causing grievous injuries to him.
5. Learned counsel for the applicant has stated that the applicant has been falsely implicated in the present case. It is next stated that the informant rushed his son to hospital, where he was admitted in a serious condition, as such, he instituted the FIR on 28.6.2019. It is next stated that that the FIR is delayed by one day and there is no explanation of the said delay caused. Learned counsel has further stated that no specific role has been assigned to any accused persons including the applicant. Subsequently, in the statements of the witnesses, it has been stated that the applicant was carrying a lathi/danda alongwith one more co-accused person, as such, at this point of time, it cannot be ascertained as to who was the author of the injuries sustained by the injured person.
6. Learned counsel has placed reliance on the statement of the witnesses Lal Babu Kol and the wife of the injured person, who have categorically stated that at the time of offence, it was pitch

dark and there was no source of light. Learned counsel has next stated that under the circumstances, how the informant or the other persons could be sure of the weapons being carried by the accused persons. It is further stated that in the FIR, it has come up that the injured person was rendered unconscious at the time of offence and was taken in that state to the hospital, but the statement of all the witnesses does not indicate towards the fact of injured person being unconscious including the injured person himself. It is next stated that the applicant has no criminal history. In case, the anticipatory bail application of the applicant is allowed, he will not misuse the liberty and shall cooperate with trial.

7. Per contra, learned A.G.A. has vehemently opposed the prayer for anticipatory bail on the ground that there are four injuries sustained by the injured person including two on the vital part and a fracture on left parietal bone has been observed in the report of the radiologist.

8. Considering the rival submissions advanced by the learned counsel for the parties and also the facts of the case, I do not find it a fit case for grant of anticipatory bail to the applicant as the arguments advanced by learned counsel for the applicant pertain to regular bail application and cannot be agitated at this stage u/s 438 Cr.P.C.

9. In view of the above, the present anticipatory bail application is 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.

(Justice Krishan Pahal)

Order Date :- 6.12.2023

Shalini