

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12931 of 2023

Applicant :- Amit Singh And 3 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Krishna Dutt Awasthi

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. This application has been moved on behalf of the applicants **Amit Singh, Rohit Singh @ Bhoop Narayan Singh, Pappu @ Shashivendra** and **Uttam** seeking anticipatory bail in Case Crime No. 947 of 2020, under Sections 308, 323, 504 IPC, Police Station Auraiya, District Auraiya.

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 as a matter of fact the assault was made by the informant side itself and since the Gram Pradhan, the father of the applicant nos. 1 and 2, had made a complaint against the informant and F.I.R. as case crime no. 64 of 2021 was also lodged due to the animosity of the said case, the present applicants have been falsely implicated in this case. Injured Lalla was not present on the spot at all and this fact finds support from the contents of the F.I.R. lodged as crime no. 64 of 2021. It is further submitted that the injuries caused to Lalla are simple in nature and the x-ray of the injured has been performed in suspicious circumstance. It is also submitted that no specific role of assault has been assigned to any of the applicants. Applicants have no criminal history to their credit. The investigation of the case has been completed and charge sheet has been filed and the applicants had been cooperative during investigation. 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 injured Lalla in his statement given to the I.O. under Section 161 CrPC has specifically averred that all the

applicants had made assault upon him. It is also submitted that the injury sustained by the injured are grievous in nature and in the x-ray report fracture in the left side forehead of skull has been found. Sufficient and ample 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 when on a complaint of Gram Pradhan measurement work of the land was going on by the area Lekhpal, the present applicants protested thereof and also made assault and Lalla, the brother of the informant, sustained grievous injuries. After investigation, charge sheet has been submitted. Prima facie it appears that the applicants have taken active participation in commission of the alleged crime and the injured Lalla has sustained grievous injury in his skull.

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. In the last, learned counsel has urged that direction for expeditious disposal of bail application of the applicants be given.

11. Hence, it is observed that in case applicants surrender before the court below and apply for bail, the same shall be considered and decided 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 :- 24.11.2023

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