

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12929 of 2023

Applicant :- Sanjay @ Sanjeev

Opposite Party :- State of U.P.

Counsel for Applicant :- Zafar Abbas, Sarve Nazir

Counsel for Opposite Party :- G.A., Pranjal Singh, Ram Kumar Dubey

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Zafar Abbas, learned counsel for the applicant, 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 for anticipatory bail in Case Crime No.257 of 2022, under Sections 147, 307 and 120B IPC, Police Station Civil Line, District Moradabad, during the pendency of trial.
4. As per prosecution story, the co-accused persons are stated to have assaulted the informant on 08.03.2022 at about 5:00 p.m. near Moradabad Ladies Club, Civil Lines and it was stated by the co-accused person Navneet that he had talks with the applicant and he has directed them to kill the informant as and when he comes before them.
5. Learned counsel for the applicant has submitted that the applicant is an Army personnel and elder brother of the co-accused person Navneet and has been falsely implicated in the present case. He has nothing to do with the said offence. Although, his name is mentioned in the body of the FIR, he has not been arrayed as an accused in the list of accused persons in the FIR. There are no allegations against the applicant of having assaulted the injured person. The said allegations are vague.
6. Learned counsel for the applicant has further stated that the criminal history of four cases assigned to the applicant stands explained as the FIR and the charge-sheet have been annexed to the anticipatory bail application. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the

applicant have also been touched upon at length.

7. Per contra, learned A.G.A. has opposed the anticipatory bail application on the ground that there is a long criminal history of nine cases assigned to the applicant and no orders have been annexed to the anticipatory bail application, as such he is not entitled for anticipatory bail. The said case does not fall within the parameters of Section 438 Cr.P.C.

8. After hearing learned counsel for the parties and taking into consideration the fact that the name of the applicant has come up in the body of the FIR coupled with the fact that the criminal history assigned to the applicant has not been explained as no orders have been annexed regarding the nine cases assigned to the applicant, 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 :- 24.11.2023

Ravi Kant

(Krishan Pahal, J.)