Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 12727 of 2023

Applicant :- Laddu Paswan @ Krishna Paswan
Opposite Party :- State Of U.P. And 3 Others
Counsel for Applicant :- Anurodh Tripathi,Abhishek Chauhan
Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

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

2. Apprehending his arrest in Case Crime No.155 of 2023, under Sections 34, 147, 148, 307, 504, 506 IPC and Section 7 Criminal Law Amendment Act, Police Station Obra, District Sonbhadra, the applicant - **Laddu Paswan @ Krishna Paswan** has filed this anticipatory bail application seeking anticipatory bail in the aforesaid crime number.

3. Some unknown persons made an assault with sharp edged weapons upon Sunny, the son of the informant, who sustained injuries. F.I.R. was lodged on 13.7.2023 against unknown accused persons and investigation started, which is still going on.

4. Learned counsel for the applicant submits that that applicant is innocent and he has apprehension of arrest in the above-mentioned case, whereas there is no credible evidence against him. He has been falsely implicated in this matter. Allegations levelled against the applicant are false. Investigation is going on into the matter. It is further submitted that the applicant is not named in the F.I.R. Even in the statement of injured Sunny himself, the name of the present applicant does not find place and he has stated that about 30 to 40 persons had made assault upon him. A similar statement has been made by eyewitness Aditya Sahani, who has named a total of 35 accused persons including the present applicant, who were participating in the incident. It is further submitted that only one injury has been found upon the right side back at chest and in the x-ray, no bony injury has been found. It is further submitted that the prosecution story is not probable, as it claims that the assault was made by 35 to 40 persons whereas only one injury has been found on the body of the injured. It is further submitted that

the co-accused Anish Kumar, having identical role, has been granted anticipatory bail by this Court vide order dated 28.10.2023 passed in Crl. Misc. Anticipatory Bail Application No.11092 of 2023. It is also submitted that the applicant has no criminal history to his credit. It is further submitted that the applicant is cooperating with the investigation of the case. No custodial interrogation is required in the matter. In case the applicant is granted anticipatory bail, he shall not misuse the liberty of bail and would obey all conditions of bail.

6. Per contra, learned A.G.A. opposed the prayer for anticipatory bail, but however could not dispute this fact that only one injury has been found upon the body of the injured and applicant is not named in the F.I.R.

7. In **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has held 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. In **Siddharth Vs. State of Uttar Pradesh & Another, (2022) 1 Supreme Court Cases 676**, the Hon'ble Apex Court has held that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it. If arrest is made routine, it can cause incalculable harm to the reputation and self-esteem of a person. If the Investigating Officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation, then there is no compulsion on the officer to arrest the accused.

9. Considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of

accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, in my view, it is a fit case for anticipatory bail to the applicant till the filing of police report under section 173 (2) Cr.P.C. before the competent Court.

10. The anticipatory bail application is allowed.

11. In the event of arrest of the applicant in the aforesaid case crime, he shall be released on anticipatory bail till the filing of police report under section 173 (2) Cr.P.C. before the competent Court on his furnishing a personal bond of Rs.50,000/- with two sureties each in the like amount to the satisfaction of Station House Officer of the police station concerned with the following conditions:-

(i) The applicant shall make himself available for interrogation by a police officer as and when required.

(ii) The applicant shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police office.

(iii) The applicant shall not leave India without the previous permission of the Court and if he has passport, the same shall be deposited by him before the S.S.P./S.P. concerned.

12. In case of default of any of the conditions, the Investigating Officer shall be at liberty to file appropriate application for cancellation of protection granted to the applicant.

Order Date :- 22.11.2023
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Digitally signed by :-
SANDEEP SHARMA
High Court of Judicature at Allahabad