

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12815 of 2023

Applicant :- Sachin And Another

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Rajesh Yadav

Counsel for Opposite Party :- G.A.,Indresh Chandra

Hon'ble Nalin Kumar Srivastava,J.

1. This application has been moved on behalf of the applicants - **Sachin** and **Chhotu** seeking anticipatory bail in Case Crime No.163 of 2023, under Sections 323, 504, 506, 308 IPC, Police Station Manth, District Mathura.
2. Heard learned counsel for the applicant, learned A.G.A. for the State as well as learned counsel for informant / opposite party no.2. and perused the record.
3. The present applicants and one Rahul came to the house of the informant and assaulted the informant with the aid of lathi and danda due to which he along with his brother sustained injuries. F.I.R. was lodged on 22.4.2023 and investigation started and now charge-sheet has been submitted in the matter.
4. It has been argued 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. They have been falsely implicated in this matter due to animosity. They were not present on spot at the time of alleged incident. Allegations levelled against the applicants are false. The investigation of the case has been completed and charge-sheet has been filed and cognizance has been taken by the Court concerned. It is also submitted that no specific role of assault has been assigned to the present applicant. Injured persons have sustained simple injuries. It is also submitted that during investigation, the applicants have been fully cooperative. It is further submitted that the applicants have no criminal history to their credit. It is also submitted that in case applicants are granted anticipatory bail, they shall not misuse the liberty of bail and would obey all conditions of bail.

5. Per contra, learned A.G.A. opposed the prayer for anticipatory bail and it has been vehemently argued that in the present matter, informant and his brother were badly assaulted by the accused applicants, who sustained grievous and serious injuries on their person. The informant has sustained head injury on left parietal region whereas the brother of the informant namely Purushottam was admitted in hospital in serious condition who received severe head injury with fracture of left temporal parietal region and he got operated for the same. Doctor has opined that the said injury is life threatening and serious in nature. It is also submitted that specific role of assault has been assigned to the applicants who have also actively participated in the commission of the crime and ample evidence has been collected by the I.O. during investigation.

6. In this matter, as is evident from the record after completion of investigation, charge sheet has been submitted and cognizance has also been taken by the Court concerned.

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 and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, in my view, it is not a fit case for anticipatory bail to the applicants. The prayer made in the

application is refused.

9. The anticipatory bail application is **rejected**.

10. In the last, learned counsel for the applicants has urged that direction for expeditious disposal of the bail application of the applicants be given in the light of the decision of the Hon'ble Apex Court in **Satender Kumar Antil vs. Central Bureau of Investigation and another, 2022 SCC OnLine SC 825**.

11. However, it is observed that the bail application of the applicants, if moved, shall be considered and decided by the Court concerned in terms of the law laid down by the Hon'ble Apex Court in Satender Kumar Antil case (supra).

It is further directed that the learned court concerned, while considering the bail application of the applicants in the light of Satender Kumar Antil case (supra), shall pass an order strictly in compliance of the directions given in the aforesaid judgment by the Hon'ble Supreme Court, in letter and spirit, particularly complying with the order dated 21.3.2023 of the Hon'ble Apex Court in the aforesaid matter.

Order Date :- 30.11.2023

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