

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12928 of 2023

Applicant :- Kafil @ Kafeel (Minor)

Opposite Party :- State of U.P.

Counsel for Applicant :- Salman Ahmad, Sharik Nadeem

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Sharik Nadeem, learned counsel for the applicant, Sri Sunil Kumar, 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.09 of 2023, under Sections 323, 308 and 506 IPC, Police Station Kakore, District Bulandshahr, during the pendency of trial.
4. As per prosecution story, the applicant alongwith co-accused persons, namely, Kamil and Shakir, are stated to have assaulted the son of the informant by the sharp edged weapon and caused grievous injuries to his head on 09.01.2023 at about 3:30 p.m.
5. Learned counsel for the applicant has submitted that the applicant has been falsely implicated in the present case. There are general allegations against all the accused persons. The injuries sustained are not by any sharp edged weapon rather they may be caused by hard and blunt object. Learned counsel has further stated that the case does not fall within the category of Section 308 I.P.C., to the maximum, it may be fall under Section 325 I.P.C.
6. Learned counsel for the applicant has further stated that the co-accused person Kamil has been enlarged on regular bail by the Court of Sessions Judge, Bulandshahar vide order dated 03.01.2023. There are no criminal history of the applicant. 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 and has stated that the notice under Section 41-A Cr.P.C. has been served on the applicant.

8. After hearing learned counsel for the parties and taking into consideration the fact that the injured person has sustained grievous injuries on vital organ of his body coupled with the fact that the co-accused person has been enlarged on regular bail and not on anticipatory bail, 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. The present anticipatory bail application is hereby found devoid of merits and is accordingly **rejected**.

9. 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.)