

Court No. - 71

**Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12778 of 2023**

Applicant :- Taiyyab

Opposite Party :- State of U.P.

Counsel for Applicant :- Janardan Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav, J.

1. Heard Mr. Janardan Yadav, learned counsel for the applicant and learned Additional Government Advocate for the State.

2. This anticipatory bail application (under section 438 Cr.P.C.) has been moved seeking bail in Case Crime No.673 of 2023, under section 3/5A/8 of Cow Slaughter Act and 11 Animal Cruelty Act, Police Station Jeeyanpur, District Azamgarh.

3. In short, the prosecution story is that upon information received the police reached the spot and when tried to stop the vehicle bearing Registration No.UP50 AT 5966, the driver of the vehicle ran away leaving the truck. Police opened fire upon the vehicle, as a result, the tyre of the truck was blast, thereafter, the police arrested the driver, namely, Sheru, who confessed the same. It is further alleged that the police has recovered 27 cow from the alleged vehicle out of which 11 cow were found to be dead.

4. Learned counsel for the applicant submits that the applicant has been falsely implicated in the present case, in fact, no such incident has taken place. The applicant has never committed any offence as alleged in the impugned FIR. The impugned FIR has been lodged against four accused persons including the applicant. The applicant is not the owner of the Truck from which recovery has been made. He further submits that co-accused Abu Talib is the owner of the truck in question. Co-accused Abu Talib is the brother of the applicant and due to this reason, the applicant has been implicated. Nothing incriminating material has been recovered from the possession or pointing out of the applicant. The recovery that has been shown is false and fabricated and there is no independent eye witness of the alleged recovery. All the witnesses are police personal, whose statement is not reliable. He further submits that the applicant is having no previous criminal history as

has been mentioned in paragraph 17 of the affidavit. He further submits that applicant has apprehension of imminent arrest and in case, applicant is released on anticipatory bail, he will not misuse the liberty and would co-operate with the trial.

5. Learned A.G.A. vehemently opposed the prayer for anticipatory bail of the applicant and has prayed for rejection of the same by submitting that the applicant is a habitual criminal involved in slaughtering. There is also a criminal history of the applicant, which is also under the Cow Slaughter Act. As per recovery memo, 27 cow were recovered out of which 11 cow were found to be dead. The allegations are very serious, hence, the applicant is not entitled for any relief, therefore, the instant applicant is hereby rejected.

6. In the light of above, looking to the facts and circumstances of this case, submissions of learned counsel for the parties as mentioned above, taking into consideration the role assigned to the applicant as per prosecution case, gravity and nature of accusation, this Court is of the view that no case for exercising its discretionary power under Section 438 Cr.P.C. is made out in favour of applicant.

7. Accordingly, this application under Section 438 Cr.P.C. is **dismissed**.

Order Date :- 30.11.2023

Ajeet