

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 12958 of 2023

Applicant :- Manoj Kumar Yadav And 2 Others

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

Counsel for Applicant :- Manoj Kumar Srivastava

Counsel for Opposite Party :- G.A.,Uttar Kumar Goswami

Hon'ble Nalin Kumar Srivastava,J.

1. This application has been moved on behalf of the applicant - **Manoj Kumar Yadav, Uday Veer @ Bablu** and **Balveer** seeking anticipatory bail in Case Crime No.239 of 2023, under Sections 323, 325, 504, 506, 308 IPC, Police Station Talgram, District Kannauj.

2. Heard learned counsel for the applicant, learned A.G.A. for the State as well as learned counsel for the informant / opposite party no.2 and perused the record.

3. An assault was made upon the brother of the informant by the named accused persons and the present applicants, who sustained grievous injuries. F.I.R. was lodged without any delay on the same day and investigation started, which is going on.

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 village rivalry. Allegations levelled against the applicants are false. It is further submitted that no specific role of assault has been assigned to the applicants. It is further submitted that the applicants have no criminal antecedents to their credit. They have been cooperative with the investigation so far. The injuries sustained by the injured are simple in nature and as such the applicant is entitled for anticipatory bail.

5. Per contra, learned A.G.A. as well as learned counsel for the informant/opposite party no.2 vehemently opposed the prayer for anticipatory bail and it has been submitted that the accused applicants and other accused persons caused serious injuries to the injured. Allegations of hurling abuses and threatening to kill have

also been levelled against them. Active role and participation of the accused applicants in the present crime has been found during investigation. It is also submitted that in the medical examination report of injured Sulkhan Singh, fracture in his right parietal bone of skull and also in the 3rd, 4th & 5th finger of the left foot was found and the doctor has opined that the said injuries fall in the category of grievous in nature. Injured, in his statement, has also narrated the active role and participation of the present applicants in the commission of the crime and the witnesses of the case have also supported the prosecution story. Offence committed by the accused applicants is serious in nature, therefore, they are not entitled for anticipatory bail.

6. 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.

7. Hence, 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 and also keeping in view the seriousness and gravity of the offence, 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.

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

9. However, it is observed that the bail application of the applicants, if moved, shall be considered and decided expeditiously by the Court concerned in accordance with law.

Order Date :- 24.11.2023

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