

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 13091 of 2023

Applicant :- Om Singh

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Yashpal Yadav, Sunil Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Sunil Kumar Yadav, learned counsel for the applicant, Sri V.K.S. Parmar, 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.158 of 2023, under Sections 147, 323, 504, 506, 336, 452 IPC and 3/25 Arms Act, Police Station Baragaon, District Varanasi, during the pendency of trial.
4. As per prosecution story, the applicant and other five named accused persons alongwith some unknown persons are stated to have assaulted the informant and his family members when he was busy in levelling his agricultural field on 20.05.2023 at about 7:00 a.m. and it was being said by the co-accused persons that bring the two pistols from the house which was lying under the bed. About 15-20 minutes later, the applicant and other co-accused persons are stated to have barged into the house of the informant, armed with deadly weapons including the pistols, and assaulted him and family members.
5. Learned counsel for the applicant has submitted that the applicant has been falsely implicated in the present case. The FIR is delayed by about six hours and there is no explanation of the said delay caused. There is a cross version to the incident as the incident with the applicant had occurred prior to the said incident i.e. on 20.05.2023 at about 6:00 a.m. and the FIR has been instituted on behalf of the applicant by Tribhuvan Singh at 2:11 p.m. one hour after the institution of the instant FIR. Learned counsel has further has stated that no person has sustained injuries. All the injuries have been manufactured and are fake. False recovery of a pistol has been shown belonging to the applicant by the informant. The applicant has every

apprehension of his arrest. There are no criminal antecedents of the applicant. There being cross version, the applicant is entitled for anticipatory bail.

6. Per contra, learned A.G.A. has opposed the anticipatory bail application on the ground that there are three injured persons, namely, Bhupendra Singh/informant, Ankit Singh and Kishan Singh, as such the prosecution story stands corroborated. Learned A.G.A. has further stated that there being cross version, the case of the applicant is squarely covered by paragraph 43 of the judgment of this Court passed in **Shivam vs. State of U.P. and Another, 2021 SCC OnLine All 264**, as such the applicant is not entitled for anticipatory bail.

7. After hearing learned counsel for the parties and taking into consideration the fact that there is a cross version in the instant case coupled with the fact that there are three injured persons, 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.

8. 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 :- 07.12.2023

Ravi Kant

(Krishan Pahal, J.)