

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 13234 of 2023

Applicant :- Sanjeev Kumar And 2 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Ram Om Vikram Singh Chauhan, Shiv
Om Vikram Singh Chauhan

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. This application has been moved on behalf of the applicants **Sanjeev Kumar, Kuldeep and Rakesh @ Rishikesh** seeking anticipatory bail in Case Crime No. 134 of 2017, under Sections 323, 324, 325, 308, 504, 506 IPC, Police Station Erwa Katara, District Auraiya.

2. Heard learned counsel for the applicants, learned A.G.A. for the State and perused the record.

3. It is submitted 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. Allegations levelled against the applicants are false. It is also submitted that the F.I.R. was lodged belatedly without any plausible explanation regarding delay. It is further submitted that general role of assault has been assigned in the matter and no specific role has been assigned to any of the accused. Applicants have no criminal history to their credit. It is further submitted that the injuries sustained by the injured are simple in nature. The investigation of the case has been completed and charge sheet has been filed. It is further submitted that the applicants had been cooperative during investigation. It has been submitted that in case applicants are granted anticipatory bail, they shall not misuse the liberty of bail and would obey all conditions of bail.

4. Learned A.G.A. opposed the prayer for anticipatory bail and submitted that the applicants have participated in the commission of the crime actively. Injuries sustained by the injured Visram Singh are serious and grievous in nature. Sufficient and ample evidence has been collected against the applicants during investigation.

5. I have considered the rival submissions made by the learned counsel for the parties.

6. It reveals from the perusal of the record that all the named accused persons including the present applicants made an assault upon Visram Singh, the uncle of the informant, and he sustained serious injuries. F.I.R. was lodged on 6.3.2017 and investigation started, which culminated into charge sheet. It also reveals that injured Visram Singh sustained a number of injuries over his body. In the supplementary report it has been mentioned that fracture in lower end of ulna has been seen and the doctor has opined that the injury is grievous in nature. It also reveals that all the witnesses have stated the active participation of the applicants in the alleged crime. Sufficient and ample evidence has been collected against the applicants during investigation.

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, all attending facts and circumstances of the case and the fact that allegations are serious in nature, without expressing any opinion on the merits of the case, in my view, it is not a fit case for anticipatory bail to the applicants. Prayer made in the application is refused.

9. The application is **rejected**.

10. In the last, learned counsel has urged that direction for expeditious disposal of bail application of the applicants be given.

11. Hence, it is observed that in case applicants surrender before the court below and apply for bail, the same shall be considered and decided in terms of the law laid down by the Hon'ble Apex Court in **Satender Kumar Antil vs. Central Bureau of Investigation and another**, 2022 SCC OnLine SC 825.

Order Date :- 1.12.2023

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