

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 13158 of 2023

Applicant :- Abhishek Kumar Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Renu Sharma

Counsel for Opposite Party :- G.A.,Ghan Shyam Dubey

Hon'ble Nalin Kumar Srivastava,J.

1. This application has been moved on behalf of the applicant **Abhishek Kumar Singh** seeking anticipatory bail in Case Crime No. 793 of 2023, under Sections 323, 336, 504, 506, 308 IPC, Police Station Gulariha, District Gorakhpur.

2. Heard learned counsel for the applicant, learned counsel for the informant as well as the learned A.G.A. for the State and perused the record. None is present for the informant even in the revised call.

3. It has been submitted by the learned counsel for the applicant that applicant is innocent and he has apprehension of his arrest in the above-mentioned case, whereas there is no credible evidence against him. Allegations levelled against the applicant are false. It is further submitted that as a matter of fact the present F.I.R. has been lodged only on account of previous animosity between the parties. It is also submitted that when the F.I.R. against the informant side was not lodged by the police an application U/S 156(3) CrPC was moved by the present applicant with the averment that he was also assaulted by the informant side on the same date but however the order on the said application was passed belatedly by the Court concerned and now F.I.R. has been lodged in the matter against the informant side also. It is also submitted that only simple injuries have been received by the informant / injured. Applicant has no criminal history to his credit. The investigation of the case has been completed and charge sheet has been filed. The applicant had been cooperative in the investigation. It has been submitted that in case applicant is granted anticipatory bail, he shall not misuse the liberty of bail and would obey all conditions of bail.

4. Learned A.G.A. and learned counsel for the informant

vehemently opposed the prayer for anticipatory bail. A reference has been made to the injury report of the injured which goes to show that four injuries have been sustained by the informant / injured over his body and in the x-ray report no adversity has been found but however in the C.T. Scan report fracture was found in the left temporal bone and the doctor in his statement given to the I.O. under Section 161 CrPC has stated that the said injury was grievous and serious and same was capable to cause death of the injured.

5. In this matter, it reveals from the perusal of the record that the applicant made assault upon the informant / injured by way of stone pelting in the afternoon of 9.9.2023 and he sustained grievous injuries and his wife also received simple injuries. F.I.R. was lodged on the same day and after investigation now charge sheet has been submitted. It also reveals that in the C.T. Scan report of the injured fracture was found in his left temporal bone and the doctor in his statement given to the I.O. has stated the said injury very grievous and serious and same was capable to cause death of the injured. Ample and sufficient evidence has been collected against the applicant during investigation. He has actively participated in commission of the alleged crime.

6. 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.

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, 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 applicant. Prayer made in the application is refused.

8. The application is **rejected**.

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

10. Hence, it is observed that in case applicant surrenders before the court below and applies for bail, the same shall be considered and decided by the Court concerned 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 :- 13.12.2023

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