

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 13223 of 2023

Applicant :- Ramnaresh Yadav And Another

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

Counsel for Applicant :- Arjun Singh Solanki

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. Heard learned counsel for the applicants as well as learned A.G.A. for the State and perused the material available on record.
2. Present Anticipatory Bail Application has been filed with the prayer to grant anticipatory bail to the applicants - **Ramnaresh Yadav** and **Ram Pratap Yadav** in Case Crime No.149 of 2023, under Sections 147, 148, 149, 307, 394, 511, 332, 334, 353, 427 IPC, 3/4 Prevention of Damage to Public Property Act, 1984 & 7 Criminal Law Amendment Act, Police Station - Mirzamurad, District - Varanasi.
3. A violent mob made an assault upon the police force and took law and situation order in its hand in respect of which, the present F.I.R. was lodged on 22.06.2023 and it was alleged therein that some police personnel also received injuries in the incident.
4. It has been submitted by the learned counsel for the applicant s that applicants are innocent and they have apprehension of arrest in the above-mentioned case, whereas there is no credible evidence against them. Allegations levelled against the applicants are false. Investigation is going on in the matter. In case applicants are granted anticipatory bail, they shall not misuse the liberty of bail and would obey all conditions of bail.
5. It is further submitted that in respect of the same set of allegations, another F.I.R. in Case Crime No.148 of 2023 was lodged against the present applicants wherein they have been granted bail by the Sessions Court vide order dated 03.08.2023 and no specific role of assault has been assigned to the present applicants in the said incident. It is also submitted that the medical report does not corroborate the prosecution version. It is further submitted that no other specific role has been assigned to the

present applicants. It is also submitted that they have been cooperative with the I.O. of the case during the course of investigation so far and as such, they are entitled for anticipatory bail. It is lastly submitted that co-accused Suresh Kumar @ Suresh Yadav has been granted anticipatory bail by this Court on 25.8.2023 vide Criminal Misc. Anticipatory Bail Application U/S 438 CrPC No. 9321 of 2023.

6. Learned A.G.A. opposed the prayer.

7. In the present matter, only simple injuries have been caused to some police personnel and in an identical case, the accused applicants have been granted anticipatory bail by the Sessions Court itself.

8. 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.

9. In **Siddharth Vs. State of Uttar Pradesh & Another, (2022) 1 Supreme Court Cases 676**, the Hon'ble Apex Court has held that personal liberty is an important aspect of our constitutional mandate. The occasion to arrest an accused during investigation arises when custodial investigation becomes necessary or it is a heinous crime or where there is a possibility of influencing the witnesses or accused may abscond. Merely because an arrest can be made because it is lawful does not mandate that arrest must be made. A distinction must be made between the existence of the power to arrest and the justification for exercise of it. If arrest is made routine, it can cause incalculable harm to the reputation and self-esteem of a person. If the Investigating Officer has no reason to believe that the accused will abscond or disobey summons and has, in fact, throughout cooperated with the investigation, then there is no compulsion on the officer to arrest the accused.

10. Considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of

accusation, role of applicants and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, in my view, it is a fit case for anticipatory bail to the applicants till filing of police report under Section 173(2) Cr.P.C. in the matter.

11. The application is **allowed** accordingly.

12. In the event of arrest of the applicants, they shall be released on anticipatory bail on their furnishing a personal bond of Rs.50,000/- with two sureties each in the like amount to the satisfaction of Station House Officer of the police station concerned with the following conditions:-

(i) The applicants shall make themselves available for interrogation by a police officer as and when required.

(ii) The applicants shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police office.

(iii) The applicants shall not leave India without the previous permission of the Court and if they have passport, the same shall be deposited by them before the S.S.P./S.P. concerned.

13. In case of default of any of the conditions, the Investigating Officer shall be at liberty to file appropriate application for cancellation of protection granted to the applicants.

Order Date :- 14.12.2023

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