

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 13500 of 2023

Applicant :- Amar Singh @ Babloo

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

Counsel for Applicant :- Ashok Kumar Mishra, Avesh Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. Supplementary affidavit filed today is taken on record.
2. This application has been moved on behalf of the applicant - **Amar Singh @ Babloo** seeking anticipatory bail in Case Crime No.126 of 2023, under Sections 147, 148, 323, 324, 308, 452, 506, 34 IPC, Police Station Kotwali Dehat, District Bijnor.
3. Heard learned counsel for the applicants, learned counsel for the informant as well as the learned A.G.A. for the State and perused the record.
4. It is submitted by the learned counsel for the applicant that the applicant is innocent and he has apprehension of arrest in the above-mentioned case, whereas there is no credible evidence against them. Allegations levelled against the applicant are false. It is further submitted that the whole prosecution story is false and fabricated. The injured persons have sustained only simple injuries. Injured Babita has sustained one serious head injury but in her statement recorded under Section 161 Cr.P.C. she has assigned specific role for causing the said injury to the co-accused Risabh and the present applicant has been assigned only general role of assault. It is further submitted that the co-accused Vikrant, Chandrabhan and Nipendra @ Neetu, having similar role, have been granted anticipatory bail by this Court vide order dated 30.10.2023 passed in Crl. Misc. Anticipatory Bail Application u/s 438 Cr.P.C. No.11568 of 2023. It is also submitted that after completion of investigation, charge sheet has been submitted in the matter. No process under Sections 82 and 83 Cr.P.C. has been issued against the applicant and the applicant has not been declared absconder. In case the applicant is granted anticipatory bail, he will not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. opposed the prayer for anticipatory bail and it has been submitted that three persons have sustained injuries in this matter and it was an intentional assault on the part of the applicants. Injured Babita has sustained serious and grievous head injury and the doctor has also opined that the said injury was very dangerous.

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

7. In this matter from the perusal of the record it reveals that in a worship proceeding in the village, an altercation took place between both the parties and the accused persons five in number including the present applicant made an assault upon the informant side and three persons sustained serious injuries. F.I.R. was lodged and after investigation charge sheet has been submitted. It also reveals that after submission of charge sheet no custodial interrogation is required. It also reveals from the perusal of the record that specific role of causing grievous injury to the injured Babita has been assigned to co-accused Risabh. Applicant had been cooperative during investigation.

8. Although charge-sheet has been submitted in the matter, but in **Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1**, the Hon'ble Apex Court has settled the law on the subject finally by holding that 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.

9. Considering the settled principles of law regarding anticipatory

bail, nature of accusation, role of applicants and all attending facts and circumstances of the case, without expressing any opinion on the merits of the case, in my view, it is a fit case for anticipatory bail to the applicant till the end of trial.

10. The application is **allowed** accordingly.

11. In the event of arrest of the applicant, he shall be released on anticipatory bail till end of trial on his furnishing a personal bond of Rs.50,000/- with two sureties each in the like amount to the satisfaction of the Court concerned with the following conditions:-

(i) The applicant shall make himself available before the Court concerned on the date fixed in the matter and will cooperate in the trial.

(ii) The applicant 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 applicant shall not leave India without the previous permission of the Court and if he has passport, the same shall be deposited by him before the S.S.P./S.P. Concerned.

12. In case of default of any of the conditions, the same may be a ground for cancellation of protection granted to the applicant.

Order Date :- 13.12.2023 / ss