

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 13587 of 2023

Applicant :- 'X' (Minor)

Opposite Party :- State Of U.P. And Another

Counsel for Applicant :- Ramesh Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. This application has been moved on behalf of the applicant - '**X**' (**Minor**) seeking anticipatory bail in Case Crime No.879 of 2023, under Sections 323, 307, 504, 506 IPC, Police Station Kotwali Deoria, District Deoria.
2. Heard learned counsel for the applicant as well as learned A.G.A. for the State and perused the record.
3. The informant was assaulted by the present applicant and other co-accused with the aid of knife and belt, who sustained serious injuries. F.I.R. was lodged on 26.10.2023 and investigation started, which is going on.
4. It is submitted by the learned counsel for the applicant that the 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. He has been falsely roped in this matter. It is further submitted that no specific role of assault has been assigned to the present applicant. Recovery of knife has been allegedly shown from the possession of the co-accused persons and nothing has been recovered from the possession or place under the control of the present applicant. Applicant is a juvenile offender. He has apprehension of arrest in this matter. He is having no criminal antecedents to his credit and as such, he is entitled for anticipatory bail.
5. Per contra, learned A.G.A. vehemently opposed the prayer for anticipatory bail and it has been submitted that the injured has sustained a number of injuries inflicted by sharp edged weapon and he was referred for treatment at higher centre. The doctor in his statement given to the I.O. has explained that the injuries

received by the injured were serious and grievous in nature. The injuries have been inflicted upon the vital part of the body, which are dangerous to life and as such, the applicant is not entitled for anticipatory bail.

6. In the present matter, a large number of injuries have been caused to the injured and active participation of the applicant in the alleged crime has been found during the investigation.

7. 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.

8. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, in my view, it is not a fit case for anticipatory bail to the applicant. The prayer made in the application is refused.

9. The anticipatory bail application is **rejected**.

Order Date :- 8.12.2023

SS