

Court No. - 11

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 1427 of 2023

Applicant :- Dharmendra Singh Alias Siffu Singh

Opposite Party :- State Of U.P. Thru. Addl. Chief
Secy. Deptt. Of Home Civil Secrett. Lko. And
Another

Counsel for Applicant :- Chandan
Srivastava, Yogesh Somvanshi

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh, J.

1. The present application under Section 438 Cr.P.C. has been filed by the applicant seeking bail in anticipation of arrest of the accused-applicant in FIR No.0126/2023, under Sections 147, 327, 323, 504, 506, 325, 427 and 452 IPC, Police Station Nawabganj, District Gonda.

2. The allegations in the FIR are that on 15.3.2023 at around 03:30 PM the accused applicant and other co-accused named in the FIR armed with *lathi-danda* etc with intention to forcibly occupy the ancestral land and property of the complainant started assaulting the family members of the complainant. Several family members of the complainant received serious injuries. Their injury reports have been placed on record as Annexure 6 to this application.

3. Shri Chandan Srivastava, learned counsel for the accused-applicant submits that except for the offence under Section 327 IPC other offences entail punishment up to sever years. He also submits that even if the allegations in the FIR are believed to be true, the offence under Section 327 IPC is not attracted on the facts of this case.

4. Considering the injuries caused to the several family members of the complainant, this Court does not find any ground to enlarge the accused-applicant on anticipatory bail, and hence, the application is rejected. However, prima-facie I am of the view that the offence under Section 327 IPC is not attracted. As prima facie in view of this Court, offence under Section 327 IPC is not attracted, the petitioner should be given the

benefit of Section 41-A CrPC subject to his cooperation in the investigation. If after investigation, offence under Section 327 IPC is made out then only he may be arrested.

Order Date :- 23.6.2023//mks