

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL  
APPLICATION U/S 438 CR.P.C. No. - 2411 of 2023

Applicant :- Mithlesh Alias Mithilesh Dubey And 5 Others  
Opposite Party :- State Of U.P. Thru. Secy. Home And Another  
Counsel for Applicant :- Abhishek Dwivedi  
Counsel for Opposite Party :- G.A.

**Hon'ble Subhash Vidyarthi,J.**

1. Heard Sri Abhishek Dwivedi, the learned counsel for the applicants, Sri Anurag Verma, the learned AGA-I for the State and perused the records.
2. The instant application has been filed by the applicants seeking anticipatory bail in F.I.R. bearing Case Crime No.201 of 2022, under Sections 323/ 380/ 427/ 440 IPC, Police Station Laliya, District Balrampur.
3. The aforesaid case has been registered on the basis of a complaint stating that a dispute had occurred between two children in the evening of 31.01.2022 because of which the accused persons attacked the complainant's house, indulged in stone pelting, damaged the house and a motorcycle and injured two persons. Thereafter exercising their political connections and influence, they immediately got a case registered and got the complainant and five other persons arrested. The complainant's cousin had given an application to the police but no action was taken thereon.
4. On the aforesaid application, the trial court had summoned the applicants by means of an order dated 30.07.2022. When they failed to appear, a bailable warrant was issued on 09.09.2022. The accused persons filed an application for discharge on 01.11.2022, which was rejected by means of an order dated 14.03.2023. Non bailable warrant were issued against the applicants on 23.05.2023 yet they did not appear before the trial court and they filed an application for anticipatory bail before the Sessions Court only on 22.09.2023. Their application has been rejected by the Sessions Court for the reason that the aforesaid conduct of the applicants indicates that they have not cooperated in judicial proceedings.
5. Learned counsel for the applicant has submitted that prior to lodging of the complaint, an FIR bearing Case Crime No. 18 of

2022 was lodged by the applicant no. 2 on 01.02.2022 against 16 persons and the complaint has been lodged as a counterblast action.

6. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the reason for delay in lodging the complaint is mentioned in the complaint itself that the FIR lodged by the applicant no. 2 was lodged promptly because of the applicants' influence whereas no action was taken on the complaint given from the side of the complainant; that the applicants have not cooperated in judicial proceedings in spite of issuance of summoning order, bailable warrant as well as non bailable warrant, and without making any observations which may affect the outcome of the case, I am of the view that the aforesaid facts do not warrant discretion of this Court by granting pre-arrest bail to the applicants.

7. The anticipatory bail application is ***rejected*** accordingly. However, in case the applicants file an application for grant of bail, the same shall be considered and decided on its merits, without being influenced by any observations made in this order.

**Order Date :- 30.10.2023**

Pradeep/-