

Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 2444 of 2023

Applicant :- Kaptan Singh @ Munna Singh And 2 Others

Opposite Party :- State Of U.P. Thru. Secy. Home Lko. And Another

Counsel for Applicant :- Narendra Gupta, Mohammad Salim Khan

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Pankaj Gupta, the learned counsel for the applicants as well as Sri Anurag Verma, the learned Additional Government Advocate-I appearing on behalf of 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.228 of 2016, under Sections 308, 323, 504, 506 I.P.C., registered at Police Station Pisawan, District Sitapur.

3. The aforesaid case has been registered on the basis of a non cognizable report filed on 13.06.2016 against the applicants stating that because of a dispute regarding operation of a tube-well, the accused persons had beaten up the informant with sticks, kicks and fists. The medico legal examination report of the victim mentioned a lacerated wound (3 x 1 cm) on left side of his forearm, the report was converted into FIR.

4. Learned A.G.A.-1 has raised a preliminary objection that the report was lodged on 13.06.2016, charge-sheet has been submitted on 05.11.2016. The applicants have approached this Court in the year 2023, which indicates that the applicants are not cooperating with the investigation and, therefore, they are not entitled to be released on pre-arrest bail. Learned A.G.A.-I has produced the relevant extract of case diary for perusal of the Court which indicates that a notice under Section 41A Cr.P.C. was issued on 05.11.2016, calling them to appear

for recording his statement on the same day. It appears that the applicants had got their statements recorded in response to the notice and thereafter a charge-sheet has been submitted on the same day.

5. In the affidavit filed in support of the anticipatory bail-application, it has been contended that the applicants have not received any summon or notice, thereafter the applicants have approached upon coming to know about the proceedings pending in the court.

6. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that applicants have appeared before the investigating officer and have got their statements recorded in response to the notice issued to them, thus, they have cooperated with the investigation; that the applicants have no criminal history and the delay has been explained by them by stating that they have not received any summons or notices after recording their statements, I am of the view that the aforesaid facts are sufficient for making out a case for granting anticipatory bail to the applicants.

7. In view of the above, the anticipatory bail application of the applicants is **allowed**. In the event of arrest/ appearance of **applicants- Kaptan Singh @ Munna Singh, Nagendra Singh, Brajendra Singh @ Chhotu Singh** before the learned Trial Court in the aforesaid case crime, he shall be released on anticipatory bail on their furnishing personal bond and two solvent sureties, each in the like amount, to the satisfaction of S.H.O./Court concerned on the following conditions and subject to any other conditions that may be fixed by the Trial Court:

(i). That the applicants shall appear before the trial court on each date fixed, unless personal presence is exempted;

(ii). That 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 from disclosing such facts to the court or to any police officer or tamper with the evidence;

(iii). That the applicants shall not pressurize/ intimidate the prosecution witness;

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(Subhash Vidyarthi, J.)

Order Date :- 1.11.2023
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